UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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DIW 04-03

Paper No. 6

KENYON & KENYON (SAN JOSE)
333 WEST SAN CARLOS ST.
SUITE 600
SAN JOSE CA 95110

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APR 0 4 2003

OFFICE OF PETITIONS

In re Application of	:
Liu and Shang	:
Application No. 10/302,271	: DECISION REFUSING STATUS
Filed: 22 November, 2002	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 12553/89	:

This is in response to the petition filed under 37 CFR 1.47(a) on 10 March, 2003.

The petition is **DISMISSED**.

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

The above-identified application was filed on 22 November, 2002, without an executed oath or declaration. Accordingly, on 31 December, 2002, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application requiring a signed oath or declaration and a surcharge for its late filing. In response, on 10 March, 2002, petitioners filed, *inter alia*, the present petition and petition fee, a request and payment for a one (1) month extension of the time to response to the Notice, and a declaration naming Wenzhong Liu and Ping Shang as joint inventors and signed by joint inventor Shang on behalf

of himself and joint inventor Liu. Petitioners assert that Ms. Alison Lai Yee Young attempted to contact joint inventor Liu at his last known address to ask him to sign the declaration, but he did not respond to her request.

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

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

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

(3) the petition fee;

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

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

The petition lacks item (1). In regards to item (1), petitioners have not shown proof that a copy of the application (specification, including claims, drawings, if any, and the Declaration) was sent or given to the non-signing inventor (or his counsel) for review.[1] Merely contacting the inventor without sending or presenting the application papers is not sufficient.

Petitioners may show proof by providing a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign can be shown, petitioners must show that the application as filed was sent or given to the non-signing inventor for review.[2] If there is a written refusal, a copy of that written refusal should be provided with any renewed application. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

The petition fee will be charged to counsel's deposit account, No. 11-0600, as authorized on the extension of time request.

---

[1] MPEP 409.03(d).

[2] Id.

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

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

OR (after 1 May, 2003)[3]

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[3]Effective 1 May, 2003, the U.S. Patent and Trademark Office is changing its address for some mail in preparation for its move to new office space in Alexandria, Virginia beginning at the end of 2003. See 68 Fed. Reg. 14332 (March 25, 2003).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov
DIW 06-03

Paper No. 8

KENYON & KENYON (SAN JOSE)
333 WEST SAN CARLOS ST.
SUITE 600
SAN JOSE CA 95110

COPY MAILED

JUN 1 2 2003

OFFICE OF PETITIONS

In re Application of	:
Liu and Shang	: DECISION ACCORDING STATUS
Application No. 10/302,271	: UNDER 37 CFR 1.47(a)
Filed: 22 November, 2002	:
Attorney Docket No. 12553/89	:

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 5 June, 2003 (certificate of mailing date 2 June, 2003).

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor cannot be found. Specifically, petitioners have shown, via the declaration of Alison Lai Yee Young, that a copy of the application sent to the non-signing inventor's last known address was returned as undeliverable by the Chinese postal service.

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, not the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The duplicate petition fee of $130.00 paid with the present petition will be credited to counsel's deposit account, No. 11-0600.

The application is being forwarded to Technology Center 1700 for examination in due course.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DIW 06-03

Wenzhong Liu
606 Huacheng Street (South)
Yichun City, Jiangxi Province
P.R. China 510000
PEOPLE'S REPUBLIC OF CHINA

COPY MAILED

JUN 1 2 2003

OFFICE OF PETITIONS

In re Application of
Liu et al.
Application No. 10/3027,271
Filed: 22 November, 2002
For: SBB HGA REWORK PROCESS

Dear Mr. Liu:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

KENYON & KENYON (SAN JOSE)
333 WEST SAN CARLOS ST.
SUITE 600
SAN JOSE CA 95110

UNITED STATES PATENT AND TRADEMARK OFFICE

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SHAY GLENN LLP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO CA 94403

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JUL 18 2008

In re Application of Serjan D. Nikolic et al. Application No. 10/302,272 Filed: November 22, 2002 Attorney Docket No.: **10078-701.504**	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed June 17, 2008, to change the order of the names of the inventors.

The petition is **GRANTED**.

The order of the names of the inventors has been changed as follows:

1. Serjan D. Nikolic
2. Hugh R. Sharkey

A corrected filing receipt reflecting the correct order of the names of the inventors is attached.

This matter is being referred to Technology Center 3762 for further examination in due course.

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

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
10/302,272	11/22/2002	3762	1251	10078-701.504	15	1

CONFIRMATION NO. 2337

CORRECTED FILING RECEIPT

66854
SHAY GLENN LLP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO, CA 94403

OC000000030950901

Date Mailed: 07/14/2008

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: 01/13/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/302,272**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Method of improving cardiac function using a porous membrane

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).

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SHAY GLENN, LLP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO, CA 94403

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JAN 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Serjan D. Nikolic, et. al.	:	
Application No. 10/302,272	:	ON PETITION
Filed: November 22, 2002	:	
Attorney Docket No. 10078-701.504	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 18, 2008, to revive the above-identified application.

The application became abandoned for failure to file a proper reply to the final Office action mailed on April 16, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an appeal with the $270 fee and an appeal brief with the $270 fee; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of $65 for a one month extension of time filed on November 18, 2008. 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 $65 extension of time submitted was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This application file is being referred to Technology Center Art Unit 3762 for further processing in accordance with this decision.

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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DEC 02 2004

Brooks Kushman P.C.
1000 Town Center
Twenty-Second Floor
Southfield, MI 48075

Paper No. 9

In re Application of Christine L. Seering Serial No. : 10/302,286 Filed : November 22, 2002 For : Multi-function Support Garment	: DECISION ON PETITION : TO WITHDRAW : HOLDING OF : ABANDONMENT

This is a decision on petitioner's request filed July 29, 2004, to review the holding of abandonment mailed July 26, 2004, for failure to respond to the Office action mailed December 2, 2003. There is no fee required for this petition.

In support of the request, petitioner has submitted a copy of a response and a copy of a PTO stamped receipt dated March 4, 2004 as evidence of the timely filing of a response. The March 4, 2004 communication included a certificate of mailing dated March 2, 2004.

In view of the above, the Notice of Abandonment mailed July 26, 2004 is in error and is hereby vacated. The holding of abandonment is withdrawn. Upon the mailing of this decision, the application will be forwarded to the Examiner via the Legal Instruments Examiner for entry and consideration of the response filed March 4, 2004.

Summary: Holding of Abandonment Withdrawn.

John E. Kittle, Director
Groups 3730 and 3760
Phone: (571) 272-2975

ak/11/19/04

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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NAVAL SURFACE WARFARE CENTER DAHLGREN DIVISION
OFFICE OF COUNSEL, CODE XDC1
17632 DAHLGREN ROAD
SUITE 121
DAHLGREN VA 22448-5110

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AUG 0 7 2007

OFFICE OF PETITIONS

In re Application of	:	
Louis M. Fabian	:	DECISION ON PETITION
Application No. 10/302,322	:	TO WITHDRAW
Filed: November 20, 2002	:	FROM RECORD
Attorney Docket No. 83891	:	

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 2, 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 Scott R. Boalick. Scott R. Boalick has been withdrawn as attorney of record; all other attorneys remain.

The correspondence address of record remains unchanged.

There is 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: **Scott R. Boalick**
USPTO
600 Dulany Street
Madison East #9C19
Alexandria, VA 22313

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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WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

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OCT 17 2005

OFFICE OF PETITIONS

In re Application of :
Tongbi Jiang et al :
Application No. 10/302,328 : ON PETITION
Filed: November 22, 2002 :
Attorney Docket No. M122-2140

This is a decision on the petition, filed October 7, 2005, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment in favor of a continuing application under 37 CFR 1.53(b). See 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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JUN 13 2008

OFFICE OF PETITIONS

In re Patent No. 7,074,788	:	LETTER REGARDING
Issued: July 11, 2006	:	PATENT TERM ADJUSTMENT
Application No. 10/302,329	:	AND NOTICE OF INTENT TO ISSUE
Filed: November 22, 2002	:	CERTIFICATE OF CORRECTION
Atty Docket No. 14108-094001/	:	
66499-6984	:	

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed August 18, 2006. Pursuant to patentees' duty of good faith and candor to the Office, patentees request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the determination of patent term adjustment (PTA) is **granted**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised patent term adjustment of **zero (0) days**.

On July 11, 2006, the above-identified application matured into U.S. Patent No. 7,074,788, with a revised patent term adjustment of 138 days. On August 18, 2006, patentees submitted the instant comment. Patentees state no basis for the request for review of the patent term adjustment.

The application history has been reviewed and it has been determined that the determination of patent term adjustment under 35 U.S.C. 154(b) of 138 days is incorrect.

The record reveals that patentees filed non-compliant amendments on December 23, 2004, and February 17, 2005. In response, the Office mailed a Notice of Non-Compliant Amendment (37 CFR § 1.121) on February 10, 2005, and May 10, 2005, respectively. The submission of a non-compliant amendment is a proper basis for reduction of patent term under 37 CFR 1.704(c)(7).

Pursuant to 37 CFR 1.704(c):

> (7) Submission of a reply having an omission (§ 1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed[.]

In accordance 37 CFR 1.704(c)(7), the period of adjustment of the term of the patent should be reduced by 153 days, the number of days beginning on the day after the date the first non-compliant amendment was filed, December 24, 2004, and ending on the date that the amendment correcting the omission was filed, May 25, 2005.

Additionally, the period of adjustment of the term of the patent should be reduced for filing a reply in excess of the three-month period from the mailing date of the final Office action of August 8, 2005. See 37 CFR 1.704(b).

Pursuant to 37 CFR 1.704(b):

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the

number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

In accordance with 37 CFR 1.704(b), the period of adjustment of the term of the patent should be reduced by 91 days, the number of days in the period beginning on the day after the date that is three months after the date of mailing of the Office action under 35 U.S.C. 132, November 9, 2005, and ending on the date the reply in the form of a notice of appeal was filed, February 7, 2006.

In view thereof, the patent should have issued with a revised patent term adjustment of **zero (0) days**.

As this letter was submitted as an advisement to the Office of an error in patentees' favor, the Office will not assess the $200.00 application fee under 37 CFR 1.18(e). The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **zero(0) days**.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Kery A. Fries

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

Day : Thursday
Date: 6/12/2008

PALM INTRANET

Time: 10:34:01

PTA Calculations for Application: 10/302329

Application Filing Date:	11/22/2002	PTO Delay (PTO):	231
Issue Date of Patent:	07/11/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	93
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-138		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
78	06/12/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		138	
74.5	06/21/2006	PTA 36 MONTHS	36		
74	07/11/2006	PATENT ISSUE DATE USED IN PTA CALCULATION			
73	05/31/2006	EXPORT TO FINAL DATA CAPTURE			
72	05/30/2006	FINISHED INITIAL DATA CAPTURE			
71	05/30/2006	DISPATCH TO FDC			
70	05/26/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
69	05/22/2006	ISSUE FEE PAYMENT VERIFIED			
68	05/22/2006	ISSUE FEE PAYMENT RECEIVED			
67	04/07/2006	EXPORT TO INITIAL DATA CAPTURE			
66	03/31/2006	MAIL NOTICE OF ALLOWANCE			
65	03/31/2006	MAIL EXAMINER'S AMENDMENT			
64	03/30/2006	ISSUE REVISION COMPLETED			
63	03/30/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
62	03/30/2006	CASE DOCKETED TO EXAMINER IN GAU			
61	03/30/2006	EXAMINER'S AMENDMENT COMMUNICATION			
60	03/30/2006	NOTICE OF ALLOWABILITY			
59	03/23/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
58	03/16/2006	DATE FORWARDED TO EXAMINER			
57	03/10/2006	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
56	02/07/2006	NOTICE OF APPEAL FILED			
55	02/07/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			

54	01/18/2006	MAIL ADVISORY ACTION (PTOL - 303)			
53	01/17/2006	ADVISORY ACTION (PTOL-303)			
52	01/03/2006	DATE FORWARDED TO EXAMINER			
51	12/15/2005	AMENDMENT AFTER FINAL REJECTION		37	41
50	12/15/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
45	09/19/2005	MAIL ADVISORY ACTION (PTOL - 303)			
44	09/15/2005	ADVISORY ACTION (PTOL-303)			
43	09/12/2005	DATE FORWARDED TO EXAMINER			
42	09/07/2005	AMENDMENT AFTER FINAL REJECTION			
41	08/08/2005	MAIL FINAL REJECTION (PTOL - 326)			
40	08/05/2005	FINAL REJECTION			
39	06/03/2005	DATE FORWARDED TO EXAMINER			
38	05/25/2005	RESPONSE AFTER NON-FINAL ACTION			
37	05/10/2005	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
36	05/09/2005	MISCELLANEOUS ACTION WITH SSP			
35	03/14/2005	DATE FORWARDED TO EXAMINER			
34	02/17/2005	RESPONSE AFTER NON-FINAL ACTION		56	31
33	02/10/2005	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
32	02/09/2005	DATE FORWARDED TO EXAMINER			
31.1	12/23/2004	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
31	12/23/2004	RESPONSE AFTER NON-FINAL ACTION			
30	12/23/2004	WORKFLOW INCOMING AMENDMENT IFW			
29	10/25/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	09/28/2004	MAIL NON-FINAL REJECTION			
26	09/27/2004	NON-FINAL REJECTION			
25	09/15/2004	DATE FORWARDED TO EXAMINER			
24	09/07/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
23	09/07/2004	WORKFLOW INCOMING AMENDMENT IFW			
22	06/03/2004	REFERENCE CAPTURE ON IDS			
21	06/03/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	08/04/2004	MAIL RESTRICTION REQUIREMENT	195		-1
19	08/03/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
18	07/21/2004	IFW TSS PROCESSING BY TECH CENTER			

		COMPLETE			
17	07/21/2004	CASE DOCKETED TO EXAMINER IN GAU			
15	11/22/2002	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
14	02/07/2003	REFERENCE CAPTURE ON IDS			
13	02/07/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	04/05/2004	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
11	04/05/2004	CORRESPONDENCE ADDRESS CHANGE			
10	05/05/2003	REFERENCE CAPTURE ON IDS			
9	05/05/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	03/26/2003	APPLICATION DISPATCHED FROM OIPE			
7	03/25/2003	APPLICATION IS NOW COMPLETE			
6	03/04/2003	ADDITIONAL APPLICATION FILING FEES			
5	03/04/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	01/02/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	12/31/2002	CLEARED BY L&R (LARS)			
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

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,074,788 B2

DATED : Jul. 11, 2006

INVENTOR(S) : Kurz 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 138 days

Delete the phrase "by 138 days" and insert – by 0 days--

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HONEYWELL/FOGG
Patent Services
101 Columbia Road
P.O Box 2245
Morristown, NJ 07962-2245

Mail Date: 04/20/2010

Applicant	: Victor Y. Chiu	: DECISION ON REQUEST FOR
Patent Number	: 7668092	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/302,336	: 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 **2196** 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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PHILIPS ELECTRONICS NORTH AMERICA CORPORATION
INTELLECTUAL PROPERTY & STANDARDS
1109 MCKAY DRIVE, M/S-41SJ
SAN JOSE CA 95131

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DEC 0 4 2006

OFFICE OF PETITIONS

In re Application of :
Klee et al. :
Application No. 10/302,349 : ON PETITION
Filed: November 22, 2002 :
Attorney Docket No. PHDE 020023 :

This is a decision on petition to withdraw the holding of abandonment under 37 CFR 1.181 filed October 13, 2006.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application was held abandoned May 22, 2006 for failure to timely file a proper reply to the final Office Action mailed on February 21, 2006. The final Office Action set a three (3) month extendable time period for reply. An amendment was filed on April 21, 2006. An Advisory Action was mailed on May 8, 2006 indicating that the April 21, 2006 amendment failed to place the application in condition for allowance. A Notice of Abandonment was mailed October 4, 2006.

Petitioner asserts that a reply to the final Office Action was timely submitted on May 22, 2006. As evidence, petitioner has submitted a copy of the reply which contains an RCE and a certificate of transmission dated May 22, 2006 pursuant to 37 CFR 1.8. Petitioner has also provided a copy of a copy of the sending unit's report confirming transmission.

The response submitted May 22, 2006 has not been located in the Office, however, in view of the evidence submitted, the response is deemed timely.

Pursuant to petitioner's request, deposit account 14-1270 will be charged the $790.00 RCE fee.

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

The application file is being forwarded to the Technology Center 2814 for further processing of the RCE.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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WASHINGTON, D.C. 20231
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Paper No. 7

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES CA 90025

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MAR 2 1 2003

OFFICE OF PETITIONS

In re Application of
Seada, et al.
Application No. 10/302,351
Filed: November 22, 2002
Attorney Docket No. 42P15208
For: METHOD, APPARATUS AND SYSTEM FOR COMPRESSING IPSEC-PROTECTED IP PACKETS

DECISION GRANTING PETITION

This is a decision on the petition entitled, "PETITION RE ALLEGEDLY MISSING FIGURE", filed February 5, 2003 (certificate of mailing date January 29, 2003), requesting, in effect, withdrawal of the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed December 20, 2002, insofar as it alleges that Figure 5 was omitted upon initial filing . The petition will be treated under 37 CFR 1.53(e).

The application was deposited on November 22, 2002. On December 20, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that drawing figure 5 described in the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that drawing figure 5 be accorded a filing date of November 22, 2002 on the basis that 5 sheets of drawing figures, including drawing figure 5, were received in the Patent and Trademark Office (PTO) on November 22, 2002. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing November 22, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 5 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 5 sheets of drawing figures, including drawing figure 5, were filed on November 22, 2002. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioners' authorization, the $130.00 petition fee will be credited to deposit account no. 02-2666.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of November 22, 2002, using the substitute drawings filed on February 11, 2003 (certificate of mailing date February 6, 2003). Office records will be corrected to show that 5 sheets of drawings were present on filing.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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SUNNYVALE, CA 94085-4040

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OFFICE OF PETITIONS

In re Application of :
Karim Seada et al :
Application No. 10/302,351 :
Filed: November 22, 2002 :
Attorney Docket No. 042390.P15208 :

ON PETITION

This is a decision on the petition filed December 26, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed July 30, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 31, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Edwin H. Taylor
12400 Wilshire Boulevard, 7th Floor
Los Angeles, CA 90025-1026

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/6/2005

TO SPE OF : ART UNIT 2800 (2852)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,707,212

Attn: Quana Grainger

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

Please complete this form and forward within 7 days to: **Scanning customer Support**

Send copy also via PTO mail to:
Certificates of Correction Branch – 2900 South Tower 9A39A
Palm location **7580** - Tel. No. 308-8309

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

Ok to make changes as requested in COCIN 9/16/05? (Reconsideration)

Thank You For Your Assistance

Ernest C. White, LIE - 308-9390x122
Certificates of Correction Branch

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

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

Comments:

The reference has been considered and should be listed on the front page.

DAVID M. GRAY
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

NOV 27 2006

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BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO CA 94303

In re Application of	:
Donald M. McDonald	:
Serial No.: 10/302,374	: PETITION DECISION
Filed: November 22, 2002	:
Attorney Docket No.: UCSF-077CON5	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed December 9, 2005. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

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Mark G. Lappin, P. C.
McDermott, Will & Emery
28 State Street
Boston, MA 02109

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OFFICE OF PETITIONS

In re Application of	:	
Brian Barney, et al.	:	
Application No. 10/302,376	:	ON PETITION
Filed: November 23, 2002	:	
Attorney Docket No. NHC0041-USA	:	

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

The petition is **DISMISSED**.

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

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

A final Office action was mailed to applicant on March 14, 2003, which set a three-month shortened statutory period for reply. Since no reply was received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on June 15, 2003.

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, a request for continued examination (RCE) under 37 CFR 1.114, or the filing of a continuing application. See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted with the instant petition does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), a request for continued examination under 37 CFR 1.114, or the filing of a continuing application. A copy of the Examiner's Advisory Action is attached herewith.

The effective date of a rule change eliminating Associate Power of Attorney practice (37 CFR 1.34(b)) was June 25, 2004. Therefore, the Associate Power of Attorney submitted with the petition has been placed in the file; however, the names of the patent practitioners listed on the Associate Power of Attorney have not been made of record.

A registered patent practitioner may take action in a patent application on behalf of a patent applicant, if he or she is authorized by the patent applicant or the assignee of the patent applicant without being of record in Office records. See 37 CFR 1.34. When acting in a representative capacity, the registered patent practitioner must provide their registration number and name along with his or her signature. A registered patent practitioner is only required to be of record in a patent application in which an executed declaration has been filed (i.e., have a power of attorney in compliance 37 CFR 1.32(b)) to:

(1) sign a change of address,
(2) expressly abandon a patent application without filing a continuation,
(3) sign a terminal disclaimer, and
(4) sign a power to inspect.

In addition, a registered patent practitioner who is not of record may act on behalf of the assignee, when an assignee complies with 37 CFR 3.73(b).

Since the attorney of record requested a change of address in the Associate Power of Attorney, the Office has updated the file records to reflect this change.

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

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

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

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

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

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Examiner's Advisory Action

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Mark G. Lappin, P. C.
McDermott Will and Emery
28 State Street
Boston, MA 02109

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OFFICE OF PETITIONS

In re Application of	:	
Brian Barney, et al.	:	
Application No. 10/302,376	:	ON PETITION
Filed: November 23, 2002	:	
Attorney Docket No. NHC0041DV1-USA	:	

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

The petition is **GRANTED**.

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

This application is being revived for consideration of the RCE.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1020 extension of time fee submitted with the petition on June 1, 2005 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) 272-3223.

The application file is being referred to Technology Center 3600.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

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APR 15 2005
TECHNOLOGY CENTER 3600

HONEYWELL INTERNATIONAL INC.
101 Columbia Road
P.O. Box 2245
Morristown, NJ 07962-2245

In re Application of
Shing P. Kau
Application No. 10/302,388
Filed: November 22, 2002
For: IN ORBIT SATELLITE SENSOR ALIGNMENT DETERMINATION

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on January 21, 2005.

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

☐ Postcard receipt being dated___.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☒ Certificate of Mailing/Transmission signed on June 24, 2004 and supported by a statement under 37 C.F.R. 1.8(b)(3).

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

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

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

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

SNM/dgd: 4/5/05

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

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Walter J. Teneza, Jr.
Suite 3
10 Station Place
Metuchen, NJ 08840

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JUL 25 2005

OFFICE OF PETITIONS

In re Application of	:	
Michael Sujue Wang	:	
Application No. 10/302,389	:	ON PETITION
Filed: November 21, 2002	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on June 27, 2005, to revive the above-identified application.

In response to the Restriction Requirement mailed November 24, 2004, petitioner hereby submits $750 for the petition to revive fee, an election, and the statement of unintentional delay.

Since petitioner has met the requirements to revive this application, pursuant to 37 CFR 1.137(b), the petition is **GRANTED**.

The application file is being referred to Technology Center Art Unit 2673, for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 4

KIMBERLY-CLARK WORLDWIDE, INC.
401 NORTH LAKE STREET
NEENAH WI 54956

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JAN 2 8 2003

OFFICE OF PETITIONS

In re Application of
Schroeder, et al.
Application No. 10/302,406
Filed: November 22, 2002
Attorney Docket No. 17161
For: BUSINESS PLANNER

DECISION GRANTING
PETITION

This is a decision on the petition filed December 18, 2002 (certificate of mailing date December 13, 2002) entitled, "PETITION TO CORRECT FILING DATE UNDER 37 CFR 1.10 ACCORDED BY USPTO BASED ON UNITED STATES POSTAL SERVICE INCORRECT ENTRY ON EXPRESS MAIL LABEL," requesting that the above-identified application be accorded a filing date of November 22, 2002 rather than the presently accorded filing date of November 21, 2002. The petition will be treated under 37 CFR 1.10(c).

Petitioners request the later filing date on the basis that the application was deposited in Express Mail service of the United States Postal Service (USPS) on November 22, 2002, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of Express Mail label no. ET791926541US showing a "date-in" of November 21, 2002 **and** a USPS date stamp for November 22, 2002. The same Express Mail label number is found on the original application papers. Petitioners assert that Express Mail package ET791926541US was deposited with the USPS on November 22, 2002 and the postal clerk mistakenly wrote November 21, 2002 in the "date-in" field.

The evidence presented establishes that the Express Mail package associated with Express Mail label no. ET791926541US was deposited with the USPS on November 22, 2002.

Accordingly, the petition is granted.

No fee has been or will be charged in connection with this petition.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to November 22, 2002.

Any inquiries related to this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 13

KIMBERLY-CLARK WORLDWIDE INC
401 NORTH LAKE STREET
NEENAH WI 54956

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OFFICE OF PETITIONS

In re Application of	:	
Schroeder et al.	:	
Application No. 10/302,406	:	ON PETITION
Filed: November 22, 2002	:	
Attorney Docket No. 17161	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely a reply to the non-final Office action mailed July 3, 2003. This Office action set a shortened statutory period for reply of three months. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 4, 2003. A Notice of Abandonment was mailed on February 26, 2004.

With the instant petition, petitioner paid the petition fee, filed a reply in the form of an amendment, and made the proper statement of unintentional delay.

It is noted that petitioner also filed an RCE. Because prosecution in the application had not closed (i.e. the July 3, 2003 Office action was not a final Office action), the RCE will not be entered. No fee for the RCE has been charged.

The Terminal Disclaimer filed with the instant petition is not required since the application was not filed prior to June 8, 1995. Therefore, the Terminal Disclaimer has not been accepted and will not be entered, but will remain in the application file. No fee for the Terminal Disclaimer has been charged.

The application file is being forwarded to Group Art Unit 3623 for consideration of the amendment filed March 29, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (703)305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/03/07

TO SPE OF : ART UNIT 2826

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/302413** Patent No.: **7034370**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE: _____ Art Unit: 2826

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: 7,034,370

DATED: 04/25/2006

INVENTOR(S): Ting-Tung Kuo

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

Ye-Chung Fu has been added as a joint inventor

FAZLI ERDEM

2/7/2007

OIPE IAP25
DEC 2 6 2006
PATENT & TRADEMARK OFFICE

COPY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	Yee-Chung Fu, Ting-Tung Kuo		
Assignee:	Advanced Nano Systems, Inc.		
Title:	MEMS Scanning Mirror With Tunable Natural Frequency		
Serial No.:	10/302,413	Filing Date:	November 22, 2002
Patent Number:	7,034,370	Issue Date:	April 25, 2006
Examiner:	Nathan J. Flynn	Group Art Unit:	2812
Docket No.:	KUO-P100		

Please ENTER !

Santa Clara, California
December 21, 2006

Certificate
DEC 2 9 2006
of Correction

Attn: Certificate of ~~Correction Branch~~ of the Patent ~~Issue~~ Division
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

FE

2/5/2007

REQUEST FOR ENTRY OF CERTIFICATE OF CORRECTION

Dear Sir:

Please enter the enclosed Certificate of Correction (PTO Form 1050) in the above patent.

The errors sought to be corrected were made by

☒ the Patent and Trademark Office. Thus, no fee is required for the Certificate of Correction pursuant to 37 CFR §1.322.

☐ Applicant(s) (at least in part). See next section for explanation. The appropriate fee under 37 CFR §1.323 has been authorized below.

Please correct the following errors made by the USPTO:

Please add **Yee-Chung Fu** – as a joint inventor for the above-identified patent application.

Accompanying this request is:

JAN - 4 2007

1. A copy of the Request for Correction of Inventorship submitted to the United States Patent and Trademark Office on March 13, 2003.

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 502226.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231, on 12/21/06.

Attorney for Applicant — Date of Signature 12/21/06

Respectfully submitted,

David C. Hsia
Attorney for Applicant
Reg. No. 46,235

JAN - 4 2007

STAPLE HERE ONLY

PRINTER'S TRIM LINE

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,034,370 B2
ISSUE DATE : April 25, 2006
INVENTOR(S) : Ting-Tung Kuo, Yee-Chung Fu

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

Face Page, line (75) – Please add Inventor – Yee-Chung Fu

PRINTER'S TRIM LINE

MAILING ADDRESS OF SENDER:

PATENT LAW GROUP LLP
2635 North First Street, Suite 223
San Jose, California 95134

PATENT NO. 7,034,370 B2
No. of add'l copies
@ 50¢ per page

JUN - 4 2007

FORM PTO 1050 (REV. 3-82)

OIPE IAP25
DEC 26 2006
PATENT & TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

Applicants:	Yee-Chung Fu, Ting-Tung Kuo
Assignee:	Not assigned.
Title:	MEMS Scanning Mirror With Tunable Natural Frequency
Serial No.:	10/302,413
Filed:	November 22, 2002
Atty Docket No.:	KUO-P100

ENCLOSED:
1. Return Receipt Postcard;
2. Transmittal Letter (1 page in duplicate);
3. Request for Correction of Inventorship (2 pages);
4. Statement by Inventor Yee-Chung Fu (1 page);
5. Declaration and Power of Attorney (2 pages).

REMARQUE DOCKETING
U.S.: _____ FOREIGN: _____
DOCKETED: 3/31 BY: PJ
ACTION: _____

COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

Applicants:	Yee-Chung Fu, Ting-Tung Kuo
Assignee:	Not assigned.
Title:	MEMS Scanning Mirror With Tunable Natural Frequency
Serial No.:	10/302,413
Filed:	November 22, 2002
Atty Docket No.:	KUO-P100

ENCLOSED:
1. Return Receipt Postcard;
2. Transmittal Letter (1 page in duplicate);
3. Request for Correction of Inventorship (2 pages);
4. Statement by Inventor Yee-Chung Fu (1 page);
5. Declaration and Power of Attorney (2 pages).

OIPE JC22
MAR 24 2003
PATENT & TRADEMARK OFFICE

DCH/ef
March 19, 2003

JAN - 4 2007

patent law group LLP

Brian D. Ogonowsky
Carmen C. Cook
David C. Hsia
Rachel V. Leiterman

OIPE IAP25
DEC 26 2006
PATENT & TRADEMARK OFFICE

March 19, 2003

Commissioner For Patents
Washington, D.C. 20231

Re:	Applicant(s):	Yee-Chung Fu, Ting-Tung Kuo,	
	Assignee:	Not assigned	
	Title:	MEMS Scanning Mirror With Tunable Natural Frequency	
	Serial No.:	10/302,413	
	Examiner:	Not yet assigned	Filed: November 22, 2002
	Docket No.:	KUO-P100	Group Art Unit: 2812

Dear Sir:

Transmitted herewith are the following documents in the above-identified application:

(1) Return Receipt Postcard;
(2) This Transmittal Letter (1 page in duplicate);
(3) Request for Correction of Inventorship Pursuant to 37 CFR § 1.48(a)(2) (2 pages);
(4) Statement by Inventor (Yee-Chung Fu) Regarding Correction of Inventorship;
(5) Declaration and Power of Attorney (2 pages).

☐ No additional fee is required.
☒ The fee has been calculated as shown below:

Total additional fee for this Amendment:

☒	Please charge our Deposit Account No. 502226 in the amount of	$	130.00
☒	Conditional Petition for Extension of Time: If an extension of time is required for timely filing of the enclosed document(s) after all papers filed with this transmittal have been considered, an extension of time is hereby requested.		
☒	The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account 19-2386. Deposit Account No. 502226.		
		Total: $	130.00

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner For Patents, Washington, D.C. 20231, on 3/19/2003.

Attorney for Applicant(s) — Date of Signature 3/19/2003

Respectfully submitted,

David C. Hsia
Attorney for Applicant(s)
Reg. No. 46,235

JAN - 4 2007

2635 North First Street, Suite 223, San Jose, CA 95134 ph: (408) 382-0480 fax: (408) 382-0481 www.patentlawgroup.com

OIPE IAP25
DEC 26 2006
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	Yee-Chung Fu, Ting-Tung Kuo		
Assignee:	Not assigned.		
Title:	MEMS Scanning Mirror With Tunable Natural Frequency		
Serial No.:	10/302,413	Filing Date:	November 22, 2002
Examiner:	Not yet assigned	Group Art Unit:	2812
Docket No.:	KUO-P100		

San Jose, California
March 19, 2003

COMMISSIONER FOR PATENTS
Washington, D. C. 20231

REQUEST FOR CORRECTION OF INVENTORSHIP PURSUANT TO 37 C.F.R. § 1.48(a)

Dear Sir:

Pursuant to 37 C.F.R. § 1.48(a), Applicant requests entry of the present amendment to correct the inventorship of the above-identified application.

Please add **Yee-Chung Fu** – as a joint inventor for the above-identified patent application.

Accompanying this request are:

1. A Statement By Inventor Regarding Correction Of Inventorship signed by inventor **Yee-Chung Fu**; and
2. A Declaration under 37 C.F.R. § 1.63 for Patent Application by all of the actual inventors.

JAN - 4 2007

The Statement Regarding Correction Of Inventorship is signed by the added inventor and provides that, on best information and belief, the error in inventorship in the above identified-application was made without deceptive intention on the part of the added inventor.

Patent Law Group LLP
2635 North First St.
Suite 223
San Jose, CA 95134
(408) 382-0480
FAX (408) 382-0481

The Commissioner is hereby authorized to charge Deposit Account No. 502226 the processing fee set forth in 37 C.F.R. § 1.17(i), in the amount of $130.00, and to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 502226.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231, on 3/19/2003

Attorney for Applicant — Date of Signature 3/19/2003

Respectfully submitted,

David C. Hsia
Attorney for Applicant
Reg. No. 46,235

Patent Law Group LLP
2635 North First St.
Suite 223
San Jose, CA 95134
(408) 382-0480
FAX (408) 382-0481

JAN - 4 2007

OIPE IAP
DEC 26 2006
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	Yee-Chung Fu, Ting-Tung Kuo		
Assignee:	Not assigned.		
Title:	MEMS Scanning Mirror With Tunable Natural Frequency		
Serial No.:	10/302,413	Filing Date:	November 22, 2002
Examiner:	Not yet assigned	Group Art Unit:	2812
Docket No.:	KUO-P100		

San Jose, California

COMMISSIONER FOR PATENTS
Washington, D. C. 20231

Statement By Inventor Regarding Correction Of Inventorship Under 37 C.F.R. § 1.48(a)(2)

I, **Yee-Chung Fu**, am a true inventor in the above-identified patent application and a person who has executed the enclosed Declaration under 37 C.F.R. §1.63 in connection with the above-identified patent application.

When the application was filed, I was not named as an inventor through error which occurred without deceptive intention on my part.

Dated: 3/18/2003

Yee-Chung Fu

Patent Law Group LLP
2635 North First St.
Suite 223
San Jose, CA 95134
(408) 382-0480
FAX (408) 382-0481

JAN - 4 2007

OIPE IAP2
DEC 26 2006
PATENT & TRADEMARK OFFICE

Attorney Docket No.: KUO-P100

DECLARATION FOR PATENT APPLICATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below adjacent 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 subject matter (process, machine, manufacture, or composition of matter, or an improvement thereof) which is claimed and for which a patent is sought by way of the application entitled

MEMS SCANNING MIRROR WITH TUNABLE NATURAL FREQUENCY

which (check)
- ☐ is attached hereto.
- ☐ and is amended by the Preliminary Amendment attached hereto.
- ☒ was filed on November 22, 2002 as Application Serial No. 10/302,413
- ☐ 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 patentability as defined in Title 37, Code of Federal Regulations, § 1.56.

I hereby appoint the following practitioners to prosecute this application and to transact all business in the United States Patent and Trademark Office connected therewith:

Customer Number

32566
PATENT TRADEMARK OFFICE

Please address all correspondence and telephone calls to:

David C. Hsia
Patent Law Group LLP
2635 North First Street, Suite 223
San Jose, California 95134-2049
Phone: (408) 382-0480
Fax: (408) 382-0481

I declare that all statements made herein of my own knowledge are true, all statements made herein on information and belief are believed to be true, and all statements made herein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties including fine or imprisonment or both as set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or this document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom.

JAN - 4 2007

Full name of first joint inventor: Yee-Chung Fu

Inventor's Signature: Yee-Chung Fu Date: 3/18/2003

Residence: Fremont, California

Post Office Address: 40328 Imperio Place
Fremont, CA 94539

Citizenship: USA

Full name of second joint inventor: Ting-Tung Kuo

Inventor's Signature: Ting-Tung Kuo Date: 3/18/2003

Residence: San Jose, California

Post Office Address: 1469 Sturgeon Way
San Jose, California 95129

Citizenship: USA

JAN - 4 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

FASSE PATENT ATTORNEYS, P.A.
P.O. BOX 726
HAMPDEN ME 04444-0726

In re Patent No. 6,899,541	:	
Issued: May 31, 2005	:	
Application No. 10/302,430	:	NOTICE
Filed: November 22, 2002	:	
Attorney Docket No. 4452	:	

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

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

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

SEAN J. EDMAN
CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

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APR 1 0 2003

OFFICE OF PETITIONS

NOTICE

In re Application of :
Thomas D. Gordon et al :
Application No. 10/302,431 :
Filed: November 21, 2002 :
Attorney Docket No. 50165/012002 :

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

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

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

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

This file is being forwarded to the Initial Patent Examination Unit.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HANLEY FLIGHT & ZIMMERMAN
20 NORTH WACKER DRIVE
SUITE 4220
CHICAGO, IL 60606

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MAY 12 2005

OFFICE OF PETITIONS

In re Patent No. 6,786,946	:
Issue Date: September 7, 2004	:
Application No. 10/302,435	: DECISION ON PETITION
Filed: November 22, 2002	: UNDER 37 CFR 3.81(b)
Attorney Docket No. 20045/10000	:

This is a decision on the petition under 37 CFR 1.183, filed March 21, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to accept the correction of the assignee on the front page of the above-identified patent.

The request is **dismissed**.

Petitioner states that inclusion of Gong Young Engineering Co., Ltd., Seoul, Korea on the Issue Fee Transmittal Form PTOL-85(b) was incorrect. Accordingly, petitioner herein requests that the corrected assignee should be **Gentech Co., Ltd.**

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

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

---

[1] *See* Official Gazette of June 22, 2004

The instant request was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). Accordingly, the request cannot be granted.

A review of the assignment records reflects that an assignment to Gentech Co., Ltd., has been recorded and that such assignment was recorded prior to issuance of this application into a patent. Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that Gentech Co., Ltd. was the assignee of record at the time of issuance of the instant application into a patent. *Note also* 35 U.S.C. § 152.

As this case has issued, in order to have the assignee as Gentech Co., Ltd. on the front page of the Letters Patent, **the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth Gentech Co., Ltd. as the assignee**. No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in the instant request. A copy of this decision ***must*** accompany the request for a Certificate of Correction.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3220. After the submission of the request for a certificate of correction to correct the assignee data on the front page of the Letters Patent, any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Wan Laymon

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LUISA BIGORNIA
HYSEQ INC.
670 ALMANOR AVENUE
SUNNYVALE, CA 94085

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SEP 3 0 2003

OFFICE OF PETITIONS

In re Application of	:	
Douglas Dedea	:	
Application No. 10/302,444	:	DECISION GRANTING PETITION
Filed: November 22, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. HYS-49CP	:	

This is a decision on the petition, filed September 23, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on February 14, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

Any inquiries concerning this decision may be directed to Wan Laymon at (703) 306-5685.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Fellers, Snider, Blankenship, Bailey & Tippens
Bank One Tower
Suite 1700
100 North Broadway
Oklahoma City OK 73102-8820

MAIL

MAR 19 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
WILSON, NATHANIEL BOYD, et al.
Application Serial No.: 10/302,445
Filed: November 22, 2002
For: WRITING MULTIPLE SERVO SECTOR PATTERNS TO IMPROVE SERVO SECTOR ALIGNMENT ON MULTIPLE SURFACES

DECISION
ON PETITION
REQUESTING REFUND

This is a decision on the petition under 37 CFR 1.181 filed November 20, 2006 to request a refund of fees paid for the Notice of Appeal filed December 8, 2005.

Petitioner asserts that normally, when the Pre-Brief Panel decides to reopen prosecution, the Applicant's period for filing an appeal brief ends at that time and the notice of appeal fee is surrendered. However, in this case Applicant believes it is inequitable to surrender the fee because the Pre-Brief Panel's decision to reopen prosecution was effectively overruled by the examiner, in his steadfast refusal to advance the merits beyond what was deemed an inadequate basis for final rejection.

A review of the file history finds a Notice of appeal and appeal fee of $500.00 was filed December 8, 2005 along with a pre-brief request. In response to the pre-appeal request, a decision to reopen prosecution was mailed January 24, 2006. Subsequently a non-final rejection was mailed April 5, 2006 followed by a final rejection mailed September 21, 2006. Applicant promptly filed a second notice of appeal with another appeal fee of $500.00 on November 20, 2006.

MPEP 1204.01 [R-3] > Reinstatement of Appeal States:
If an appellant wishes to reinstate an appeal after prosecution is reopened, appellant must file a new notice of appeal in compliance with 37 CFR 41.31 and a complete new appeal brief in compliance with 37 CFR 41.37. Any previously paid appeal fees set forth in 37 CFR 41.20 for filing a notice of appeal, filing an appeal brief, and requesting an oral hearing (if applicable) will be applied to the new appeal on the same application as long as a final Board decision has not been made on the prior appeal. If, however, the appeal fees have increased since they were previously paid, then appellant must pay the difference between the current fee(s) and the amount previously paid.

Appellant's have filed a new notice of appeal in compliance with 37 CFR 41.31, a final Board decision has not been made on the prior appeal, and the appeal fees have not increased since they were previously paid.

Therefore it is determined that the notice of appeal fee payment of December 8, 2005 will be applied to the new notice of appeal and the notice of appeal fee payment of November 20, 2006 will be refunded to the appellant.

The Petition is **GRANTED**.

The application file is being forwarded to Technology Center 2600 support staff for refunding $500.00 to the appellant, as requested.

Michael Horabik
Quality Assurance Specialist
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

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

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DEC 01 2009

OFFICE OF PETITIONS

In re Patent No. 6,771,042	:	
Issued: August 3, 2004	:	
Application No. 10/302,458	:	ON PETITION
Filed: November 22, 2002	:	
Attorney Docket No. 062015-1100	:	

This is a decision on the petition filed October 7, 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**.

A Certificate of Correction was issued on November 3, 2009.

Telephone inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Inquiries regarding the certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

Alan R. Loudermilk
Loudermilk & Associates
P.O. Box 3607
Los Altos CA 94024-0607

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MAR 13 2006

OFFICE OF PETITIONS

In re Application of :
Wayne D. Jung et al. :
Application No. 10/302,459 :
Filing Date: November 22, 2002 :
Attorney Docket No. JJL9601F :
Title: APPARATUS AND METHOD FOR :
MEASURING COLOR :

DECISION ON PETITION UNDER
37 CFR §1.78(A)(3)

This is a decision on the petition under 37 CFR §1.78(a)(3), filed May 16, 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 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.

Technology Center Art Unit 2877 will be made aware of this decision so that appropriate action can be taken on the amendment filed May 16, 2005, including consideration by the Examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Frances Hicks
Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

ATTACHMENT: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8-26-08

TO SPE OF : ART UNIT 2616 2467

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/2024175 Patent No.: 7310315

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

FOR IFW FILES:

Check Claims / Drawings

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

E Yang
Certificates of Correction Branch
703-308-9390 ext. 117

Thank You For Your Assistance

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

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

Comments:

These changes have been reviewed: no new matter and no change in scope of the claims.

/Mark A. Mais/ Examiner, GAU 2467 11/10/2009

/Pankaj Kumar/ — **SPE**

2467 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 05/05/2010

Applicant	: Chengfuh Jeffrey Tang	: DECISION ON REQUEST FOR
Patent Number	: 7636834	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/302,489	: 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 **596** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ernest D. Buff
Ernest D. Buff & Associates, LLC
245 South Street
Morristown, NJ 07960

MAILED

JUN 06 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Paper No. 4

In re application of
John R. Irwin
Application No. 10/302,504
Filed: November 25, 2002
For: COUPON BARCODE INTERNET VERIFICATION SYSTEM

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(ACCELERATED EXAMINATION)**

This is in response to the petition filed on May 5, 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.

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

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866
(703) 605-0586

KJD/dxn: 6/3/03

THE SPE/EXAMINER NEEDS TO FILL OUT THE FOLLOWING PRIOR TO A DECISION BEING MADE ON THE PETITION TO MAKE SPECIAL

☒ THERE IS NO RESTRICTION/ELECTION REQUIRED IN THIS CASE

☐ THERE IS A RESTRICTION/ELECTION REQUIRED AND THE ATTORNEY HAS ELECTED WITHOUT TRAVERSE

☐ THERE IS A RESTRICTION/ELECTION REQUIRED AND THE ATTORNEY HAS REFUSED TO ELECT WITHOUT TRAVERSE (MAKE SURE ATTORNEY KNOWS THAT HIS PETITION TO MAKE SPECIAL WILL BE DENIED IF HE REFUSES TO ELECT OR IF HE ELECTS WITH TRAVERSE)

PLEASE RETURN THE CASE ASAP TO:

SPRE DETAILEE (36 PG) **CPK5-8A03**

(UNDER NO CIRCUMSTANCES SHOULD AN OFFICE ACTION BE ISSUED PRIOR TO THE PETITION BEING DECIDED)

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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MAR 2 9 2007

OFFICE OF PETITIONS

In re Patent No. 7,148,053	:	
Issue Date: December 12, 2006	:	
Application No. 10/302,524	:	ON PETITION
Filed: November 25, 2002	:	
Attorney Docket No. 1142.0014-03	:	

This is a decision on the communication filed September 11, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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EDWARD L. BLENDERMANN
87 CYPROSS POND RD.
PORT ORANGE, FL 32128

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FEB 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Edward L. Blendermann	:	
Application No. 10/302,527	:	ON PETITION
Filed: November 25, 2002	:	
Attorney Docket No. None	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 18, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 11, 2005. This decision precedes the mailing of a Notice of Abandonment.

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).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) pursuant to 37 CFR 1.114 and fee of $395; (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 1617 for further processing the RCE in accordance with 37 CFR 1.114.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/17/06

TO SPE OF : ART UNIT 1756

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/302529** Patent No.: **6998199**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE _____ Art Unit 1756

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/302531

Paper No.: 7

DATE : 6/14/05

TO SPE OF : ART UNIT 1754

SUBJECT : Request for Certificate of Correction on Patent No.: 6882449 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:

Wayne A. Langel — SPE

1754 — Art Unit

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77 WEST WACKER DRIVE, SUITE 2500
CHICAGO, IL 60601

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SEP 02 2008

OFFICE OF PETITIONS

In re Application of :

HAWKES, Gary J. :
Application No. 10/302,532 : DECISION ON PETITION TO
Filed: November 21, 2002 : WITHDRAW FROM RECORD
Attorney Docket No. 57621.010003 :

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 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 Douglas B. Teaney 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.

All future correspondence will be directed to the sole named inventor Joe Smith at the address indicated below. The application became abandoned for failure to timely respond to the office action mailed February 4, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

CC: GARY J. HAWKES
55 B WARRINGTON CRESENT
LONDON, ENGLAND W9 1EA

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 GATEHOUSE RD, SUITE 500 EAST
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

COPY MAILED

MAR 10 2009

OFFICE OF PETITIONS

Applicant: Murphy *et al.*
Application No.: 10/302,547
Filed: November 21, 2002
Title: RECOVERY OF RECOMBINANT HUMAN PARAINFLUENZA VIRUS TYPE 1 (HPIV1) FROM CDNA AND USE OF RECOMBINANT HPIV1 IN IMMUNOGENIC COMPOSITIONS AND AS VECTORS TO ELICIT IMMUNE RESPONSES AGAINST PIV AND OTHER HUMAN PATHOGENS

DECISION DISMISSING PETITION

This is a decision on the "PETITION UNDER 37 CFR 1.183 TO WAIVE RULE TO PERMIT FILING OF REFERENCES ON COMPACT DISK," filed March 9, 2007 ("the petition"). The petition requests waiver of 37 CFR 1.98(a)(2) to submit, in lieu of paper copies, electronic copies on compact disk of references cited in an information disclosure statement (IDS) filed concurrently with the petition on March 9, 2007.

Petitioner paid by check the petition fee of $400.00 pursuant to 37 CFR 1.17(f) for the petition under 37 CFR 1.183.

For the reasons set forth herein, the petition is dismissed.

DISCUSSION

37 CFR 1.98(a)(2) provides that any IDS filed under § 1.97 shall include:

> A legible copy of:
>
> > (i) Each foreign patent;
> >
> > (ii) Each publication or that portion which caused it to be listed, other than U.S. patents and U.S. patent application publications unless required by the Office;
> >
> > (iii) For each cited pending unpublished U.S. application, the application specification including the claims, and any drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion; and
> >
> > (iv) All other information or that portion which caused it to be listed.

37 CFR 1.183 states:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

37 CFR 1.2 states:

> All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The instant petition has been fully considered. 37 CFR 1.98(a)(2) requires legible copies of certain documents listed on an IDS filed under 37 CFR 1.97 be submitted to the Office. Petitioner seeks waiver of this copy requirement for the IDS that was filed concurrently with the petition on March 9, 2007. The provisions of 37 CFR 1.98(a)(2) may be waived under 37 CFR 1.183 where a petitioner demonstrates an extraordinary situation in which justice requires suspension of the rule.

In support of the petition for waiver of 37 CFR 1.98(a)(2), petitioner notes that the IDS includes a large number of documents, several of which are PCT publications of great length. Petitioner submits that:

> [D]ue to the number of references submitted and the volume of paper that would be required to comply with 37 CFR 1.98(a)(2) by filing of paper copies of the references, it is in the interest of the USPTO, and of Applicants, for the USPTO to accept the references on Compact Disk. In particular, acceptance of the references on Compact Disk avoids the waste of USPTO resources for scanning of the references for inclusion in the Image File Wrapper of the present application, and avoids the waste of Applicants' resources for printing of paper copies of the references in the first instance.[1]

As a general rule, waiver of a rule in the interest of justice is not available when there is recourse within the rules of practice. In this instance, petitioner requests waiver of the rules governing submission of documents to the Office based on the alleged waste of Office and applicant resources if paper copies of a large number of references were submitted to the Office.

[1] Petition at page 2.

In lieu of submitting paper copies of the references, however, petitioner may use the Office's web-based electronic filing system (EFS-Web) to electronically submit copies of the references to the Office with an IDS (e-IDS).[2] Using EFS-Web, petitioner may electronically submit copies of the references to the Office in portable document format (PDF), which will avoid wasting applicants' resources as it appears applicant already has copies of each of the references in PDF format.[3]

Moreover, EFS-Web can accommodate submission of an e-IDS that contains a listing of a large number of references.[4] Foreign references and non-patent literature are submitted as separate PDF attachments and are indexed as "Foreign Reference" and "NPL Documents" under the IDS/References category (copies of U.S. patents and patent application publications are not required to be submitted).[5] Up to sixty files can be uploaded per submission, and the filer may submit any additional electronic files as follow-on documents later on the same day as the initial filing.[6]

Additionally, contrary to petitioner's assertion, it would not be in the Office's interest to accept petitioner's submission of the references on compact disk as the Office presently has no facility for importing such files from compact disk directly into the image file wrapper (IFW) of the instant application.[7] Rather, the Office would be required to undergo the time-consuming and costly steps of printing out each of the references submitted on compact disk and scanning the printed references into the IFW. Nor is it in applicant's interest for the Office to accept petitioner's submission of the references on compact disk as manual scanning of the references printed from the compact disk increases the potential for error on the part of the Office and would likely reduce the quality of the copies of the references that are entered into the IFW.

Accordingly, for all of the reasons set forth above, petitioner has not presented facts that demonstrate an extraordinary situation in which justice requires suspension of 37 CFR 1.98(a)(2), and the petition is dismissed.

ADDITIONAL DISCUSSION

The Office notes that petitioner mailed a letter dated December 27, 2007 to the Office of Patent Legal Administration, together with a copy of the March 9, 2007 IDS and compact disks that were identified as containing copies of the IDS references for consideration by the examiner. In

[2] *See Manual of Patent Examining Procedure* § 609.07 (8th ed. 2001) (Rev. 7, July 2008) (providing that "[a]s of May of 2002 IDSs may be submitted to the Office via the EFS" and that "[a]s of January 2007, an e-IDS filed via EFS-Web may include citations of U.S. patents, U.S. patent application publications, foreign patent documents and non-patent literature (NPLs)").
[3] *See* petition at page 2, item (C) (identifying "a Compact Disk including a .pdf file for each reference").
[4] *See Manual of Patent Examining Procedure* § 609.07 (8th ed. 2001) (Rev. 7, July 2008) (providing that an individual e-IDS may contain a listing of (1) a combined total of 50 U.S. patents and U.S. patent application publications, (2) 50 foreign patent documents, and (3) 50 NPLs, and that more than one e-IDS may be submitted if these numbers are exceeded).
[5] *See Frequently Asked Questions about EFS-Web*, Question p220efs221, at http://www.uspto.gov/ebc/efs_faq.htm.
[6] *See Legal Framework for EFS-Web* § XVI (September 2008) at http://www.uspto.gov/ebc/portal/efs/legal.htm.
[7] *See Frequently Asked Questions about EFS-Web*, Question p242efs586, at http://www.uspto.gov/ebc/efs_faq.htm.

the December 27, 2007 letter, petitioner indicated that the copies of the IDS references were being supplied on compact disk pursuant to an alleged oral understanding with an Office employee. Petitioner is reminded that all business with the Office should be transacted in writing.[8] 37 CFR 1.2 provides that the action of the Office will be based exclusively on the written record in the Office and no attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt. The written record of the instant application does not include a paper (e.g., an interview summary) that memorializes the alleged oral understanding or the basis upon which such understanding was premised. Accordingly, pursuant to 37 CFR 1.2, the alleged oral understanding has not been considered by the Office.

CONCLUSION

The petition is dismissed for the reasons set forth herein, and the application is being forwarded to Technology Center 1600 for further processing. Telephone inquiries regarding this communication should be directed to Nicole Dretar at (571) 272-7717.

Brian E. Hanlon

Brian Hanlon
Deputy Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

[8] 37 CFR 1.2

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PO BOX 80278
SAN DIEGO CA 92138-0278

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JAN 30 2007

OFFICE OF PETITIONS

In re Application	:	
Sucov, et al.	:	
Application No. 10/302,557	:	DECISION ON APPLICATION
Filed: November 22, 2002	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. SALK1200-2	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705", filed September 28, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to two hundred thirty-four (234) days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein. However, applicants' request that an additional PTO delay of four hundred twenty-seven (427) days be assessed is being **HELD IN ABEYANCE** until after the actual patent date.

Applicants are given two months from the issue date of the patent to request reconsideration of the patent term adjustment indicated on the patent application. Applicants may seek such reconsideration without payment of the fee. A copy of this decision should accompany applicant's written request for reconsideration.

On July 11, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is zero (0) days. On September 28, 2006, applicants 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 two hundred thirty-four (234) days.

Applicants state that the patent issuing from the application is subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of zero (0) days based on an adjustment for PTO delay of twenty-six (26) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. § 1.703(a)(3), reduced by applicants' delays of one hundred three (103), one hundred thirty-two (132), and three (3) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). The adjustment of one hundred three (103) days is at issue.

Applicants argue that they should have not been assessed delay of one hundred three (103) days for filing a response to a Restriction Requirement. The Office mailed a Restriction Requirement on May 4, 2004. Applicants argue that they filed a reply on October 1, 2004, not November 15, 2004 as reflected in PAIR. A review of the file confirms this to be the case. Accordingly, applicants should have been assessed delay of fifty-eight (58) days, not one hundred three (103) days.

Lastly, applicants assert additional PTO delay of four hundred twenty-seven (427) days for the failure on the part of the Office to issue the patent within three years of its filing. However, the Office does not assess whether or not any additional PTA is accorded in this instance until the issue date is established.[2]

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **zero (0) days** (26 days of PTO delay and 193 (58+132+3) days of applicant delay).

---

[1] Applicant filed the PTA together with payment of the issue fee.

[2] Applicants should note that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period of pendency before the Office except for periods excluded under 35 U.S.C. (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).

The $200 fee set forth in 37 C.F.R. § 1.18(e) has been charged to Deposit Account No. 50-0872, as authorized.

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

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

Kery Fries

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

Enclosure: Copy of Revised PAIR Screen

Day : Monday
Date: 1/29/2007

PALM INTRANET

Time: 17:55:28

PTA Calculations for Application: 10/302557			
Application Filing Date:	11/22/2002	PTO Delay (PTO):	26
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	238
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	45		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
53	01/29/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	103		
52	01/29/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		58	
43	07/11/2006	MAIL NOTICE OF ALLOWANCE			
42	07/02/2006	ISSUE REVISION COMPLETED			
41	07/06/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
40	06/24/2006	NOTICE OF ALLOWABILITY			
39	05/15/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT	26		34
38	05/12/2006	MISCELLANEOUS ACTION WITH SSP			
37	04/12/2006	CASE DOCKETED TO EXAMINER IN GAU			
36	02/07/2006	CASE DOCKETED TO EXAMINER IN GAU			
35	01/12/2006	DATE FORWARDED TO EXAMINER			
34	12/19/2005	RESPONSE AFTER NON-FINAL ACTION		3	31
33	11/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
32	01/30/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	09/16/2005	MAIL NON-FINAL REJECTION			
30	09/15/2005	NON-FINAL REJECTION			
29	07/15/2005	DATE FORWARDED TO EXAMINER			
28	07/11/2005	RESPONSE TO A LETTER TO COMPLY WITH THE SEQUENCE RULES		132	23
27	06/06/2005	MAIL INCOMPLETE RESPONSE TO SEQUENCE RULE REQUEST			
26	06/02/2005	INCOMPLETE RESPONSE TO SEQUENCE RULE REQUEST			
24	03/15/2005	DATE FORWARDED TO EXAMINER			
		RESPONSE TO A LETTER TO COMPLY WITH THE			

23	03/01/2005	SEQUENCE RULES			
22	01/24/2005	MAIL LETTER REQUIRING CRF (UNREADABLE, NON-COMPLIANT, NOT SUBMITTED)			
21	01/24/2005	CRF DISKETTE UNREADABLE / DID NOT COMPLY / REQUIRED BUT NOT SUBMITTED			
20	11/18/2004	DATE FORWARDED TO EXAMINER			
19	11/15/2004	RESPONSE TO ELECTION / RESTRICTION FILED		103	17
18	11/15/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
17	05/04/2004	MAIL RESTRICTION REQUIREMENT			
16	05/03/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
15	02/27/2004	DATE FORWARDED TO EXAMINER			
14	02/17/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
13	01/16/2004	MAIL RESTRICTION REQUIREMENT			
12	01/12/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
11	09/30/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10	01/30/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	08/07/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
8	03/27/2003	CASE DOCKETED TO EXAMINER IN GAU			
7	01/17/2003	APPLICATION DISPATCHED FROM OIPE			
6	01/16/2003	APPLICATION IS NOW COMPLETE			
4	01/10/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
3	11/29/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	11/22/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	11/22/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis, MN 55402

Paper No. 8

In re Application of
David Prutchi et al
Serial No. : 10/302,587
Filed : November 22, 2002
For : Implantable Device with Digital Waveform Telemetry

: DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on petitioner's request filed May 17, 2004, to review the holding of abandonment mailed April 27, 2004, for failure to respond to the Office action mailed October 22, 2003. There is no fee required for this petition.

In support of the request, petitioner has submitted a copy of a response and a copy of a PTO stamped receipt dated January 26, 2004 (certificate of mailing dated January 22, 2004), as evidence of the timely filing of a response to the Office action mailed October 22, 2003.

In view of the above, the Notice of Abandonment mailed April 27, 2004, is in error and is hereby vacated. The holding of abandonment is withdrawn. Upon the mailing of this decision, the application will be forwarded to the Examiner via the Legal Instruments Examiner for entry and consideration of the response filed January 26, 2004.

Summary: Holding of Abandonment Withdrawn.

John E. Kittle, Director
Groups 3730 and 3760
Phone: (703) 308-0873

ak/06/21/04

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LEGAL DEPARTMENT
ALEXZA MOLECULAR DELIVERY CORP.
1001 EAST MEADOW CIRCLE
PALO ALTO, CA 94303

COPY MAILED
JUN 19 2006
OFFICE OF PETITIONS

In re Application of	:	
Lu, Amy T.	:	DECISION ON PETITION
Application No. 10/302,614	:	TO WITHDRAW
Filed: November 21, 2002	:	FROM RECORD
Attorney Docket No. 00011.02R	:	

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 16, 2004.

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

A review of the file record indicates that the power of attorney to Elaine C. Stracker has been revoked by the assignee of the entire interest of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

There is an outstanding Office action mailed March 7, 2006 that requires a reply.

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 Petitions Examiner Liana Chase at 571-272- 3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

David Bucci for
Petitions Examiner
Office of Petitions

cc:

SWANSON & BRATSCHUN L.L.C.
1745 SHEA CENTER DRIVE
SUITE 330
HIGHLANDS RANCH CO 80129

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Paper 6

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041
AUSTRALIA

COPY MAILED

APR 0 7 2004

OFFICE OF PETITIONS

In re Application of
Kia Silverbrook
Application No. 10/302,618
Filed: November 23, 2002
Attorney Docket No. MJT010US
Title of Invention: THERMAL INK JET PRINTHEAD WITH HEATERS FORMED FROM LOW ATOMIC NUMBER ELEMENTS

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b) filed February 11, 2004 to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a non-final Office Action which was mailed on May 27, 2003. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on August 28, 2003. A Notice of Abandonment was mailed on December 1, 2003.

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

A one (1) month extension of time was requested on with the instant petition. However, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum 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 November 27, 2003. Petitioner is ineligible for any extensions of time. Accordingly, a Treasury Check in the amount of $110.00 will be forwarded to petitioner.

This application is being forwarded to Technology Center 2800 for further processing of the Amendment submitted with the instant petition.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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TIMOTHY D. GERLER
1142 NORTH REDBUD DRIVE
LOVELAND CO 80538

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OFFICE OF PETITIONS

In re Application of
Gerler
Application No. 10/302,619
Filed: November 25, 2002
Attorney Docket No. GERLER - EMC
For: ELECTROMAGNETIC COUPLING DEVICE FOR CONTROL OF HYDRAULIC TURBINES

: DECISION ON PETITION
: UNDER 37 CFR 1.181

This is a decision on the petition under 37 CFR 1.181, filed September 23, 2006, to withdraw the holding of abandonment of the above-identified application.

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

This application was held abandoned due to applicant's alleged failure to reply within one month of the Notice of Non-Compliant Amendment, mailed August 17, 2004. The Office contended that this application became abandoned on September 18, 2004. A Notice of Abandonment was mailed on August 7, 2006.

Petitioner asserts that a reply was timely received in the Office on September 7, 2004. In support of this assertion, petitioners have provided a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination date stamp, citing September 7, 2004 as the date of receipt, affixed thereto. The postcard lists, *inter alia*, that the filing included an amendment entitled, "B-R1".

The return postcard constitutes *prima facie* evidence that the items listed thereon, including an amendment entitled, "B-R1", were received in the Office on September 7, 2004. MPEP 503. Petitioner has provided a copy of the September 7, 2004 correspondence.

Accordingly, the petition is **granted**, the holding of abandonment is withdrawn, and the August 7, 2006 Notice of Abandonment is **vacated**.

After the mailing of this decision, the application file will be returned to Technology Center A.U. 3745 for consideration of the amendment filed on September 7, 2004 and resubmitted with the instant petition on September 23, 2006.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFI
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Paper No.3

Leah Sheery
OPPENHEIMER WOLFF & DONNELLY LLP
1400 Page Mill Road
Palo Alto, CA 94304-1124

MAILED

JUN 0 4 2003

Technology Center 2100

In re Application of:)
Johnson, C.S.)
Application No. 10/302,627) **DECISION ON REQUEST FOR**
Filed: November 21, 2002) **WITHDRAWAL AS ATTORNEY**
For: HYBRID METHOD FOR FLUHING)
TRANSACTION STATE IN A
FAULT-TOLERANT CLUSTERED
DATABASE

This is a decision on the Request To Withdraw from Representation filed May 16, 2003.

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

The request filed May 16, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

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

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

cc: Bill Streeter
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

#5
7-21-03

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TECHNOLOGY CENTER 2100

Paper No. 5

Leah Sherry
OPPENHEIMER WOLFF & DONNELLY LLP
1400 Page Mill Road
Palo Alto, CA 94304-1124

In re Application of:	)	
Wisler, Trina	)	
Application No. 10/302,628	)	**DECISION ON REQUEST FOR**
Filed: November 21, 2002	)	**WITHDRAWAL AS ATTORNEY**
For: METHOD FOR HANDLING NODE FAILURES AND RELOADS IN A FAULT TOLERANT CLUSTERED DATABASE SUPPORTING TRANSACTION REGISTRATION AND FAULT-IN LOGIC	)	

This is a decision on the Request To Withdraw from Representation filed May 16, 2003.

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

The request filed May 16, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

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

for James R. Matthews

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

cc: Bill Streeter
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

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GATES & COOPER LLP
HOWARD HUGHES CENTER
6701 CENTER DRIVE WEST, SUITE 1050
LOS ANGELES, CA 90045

AUG 25 2005

In re Application of ZHANG et al. Application No. 10/302,635 Filed: November 22, 2002 Title: VERTICAL GATE-DEPLETED SINGLE-ELECTRON TRANSISTOR	: : : : :	DECISION ON PETITION

This is a decision on the petition filed June 24, 2005, requesting that the holding of abandonment in the above-identified application be withdrawn and that supervisory authority be invoked to withdraw the examiner's requirement to cancel non-elected claims.

The petition to withdraw the holding of abandonment is GRANTED.

The examiner's requirement to cancel claims drawn to the non-elected invention is VACATED.

A Notice of Defective Brief was mailed on April 27, 2005, setting a one month shorten-statutory period of reply. A Notice of Abandonment was mailed on June 20, 2005.

Petitioner asserts that a reply to the Notice of Defective Brief was timely filed in the Patent and Trademark Office on May 25, 2005.

A review of the application file reveals that the reply to the Notice of Defective Brief was timely received on May 25, 2005 and matched with the file. The examiner in the Notice of Abandonment acknowledges the reply to the Notice of Defective Brief. However, in the absence of an amendment to cancel the non-elected claims, the examiner held the case abandoned.

A review of the final Office action mailed September 23, 2004 reveals that the examiner required the applicant to either cancel the non-elected claims as part of a complete response to the final Office action or take other appropriate action.

Supervisory authority is hereby invoked to vacate the examiner's holding that the application is abandoned for failure to cancel claims drawn to the non-elected invention. The examiner's requirement in the final Office action was not limited to canceling claims, but includes other action, such as filing a petition under 37 CFR 1.144.

In the instant application, applicant's "other appropriate action" includes arguments that the claims should not be cancelled in order to preserve the right to request rejoinder of the claims after appeal.

For the above reasons, the Notice of Abandonment and the examiner's requirement to cancel non-elected claims are hereby vacated. The holding of abandonment is also withdrawn. Inconvenience to petitioner is regretted.

The application file is being returned to the examiner for consideration of the appeal brief and to take appropriate action.

Questions regarding this decision should be directed to Jose' G. Dees at 571-272-1569.

James L. Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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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.
10/302,635	11/22/2002	Yaohui Zhang	G&C 30435.147-US-01	1266

22462 7590 01/29/2009
GATES & COOPER LLP
HOWARD HUGHES CENTER
6701 CENTER DRIVE WEST, SUITE 1050
LOS ANGELES, CA 90045

EXAMINER
NADAV, ORI

ART UNIT	PAPER NUMBER
2811	

MAIL DATE	DELIVERY MODE
01/29/2009	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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George H. Gates
Gates & Cooper LLP
Howard Hughes Center
6701 Center Drive West, Suite 1050
Los Angeles, CA 90045

In re Application of	:	
Zhang et al.	:	
Application No.: 10/302,635	:	DECISION ON PETITION
Filed: November 22, 2002	:	
Attorney Docket No.: G&C 30435.147-US-01	:	
For: **VERTICAL GATE-DEPLETED SINGLE ELECTRON TRANSISTOR**	:	

This is a decision on a petition filed September 17, 2008, requesting that the Notice of Abandonment mailed on July 3, 2008 be vacated and that claims 1-9 be allowed and the application passed to issue.

The petition is **GRANTED**.

The petition asserts that the Notice of Abandonment, mailed on July 3, 2008, indicating that the application was abandoned in view of the Decision by the Board of Patent Appeals and Interferences ("Board"), rendered on March 31, 2008, is erroneous and should be withdrawn.

A review of the written record indicates that claims 1-27 were pending in the final Office action mailed on September 23, 2004. Claims 1-9 were allowed, claims 19-27 were finally rejected and claims 10-18 were withdrawn from further consideration as being directed to a non-elected invention. A Notice of Appeal was filed on January 14, 2005, followed by an Appeal Brief on March 14, 2005, and a Supplemental Appeal Brief on December 21, 2005. An Examiner's Answer was mailed on July 5, 2006. A Decision on Appeal from the Board was mailed on March 31, 2008 affirming the final rejection of claims 19-27. A Notice of Abandonment was mailed on July 3, 2008. The allowed claims 1-9 were not passed to issue and the withdrawn claims 10-18 were not canceled.

MPEP section 1214.06 (II) indicates that when a Board Decision is rendered on an application that includes rejected claims and allowed claims, if the Examiner is affirmed, the claims that were rejected should be canceled and the claims that were allowed stand allowed. The Examiner is to issue the application on the claims which stand allowed.

Claims 10-27 should have been properly canceled and the application should have been passed to issue with the allowance of claims 1-9. It is noted that non-elected claims may properly be canceled because the time for filing a petition under 37 CFR 1.144 expired as of the date of the filing of the Notice of Appeal. Therefore, the application was held abandoned in error.

For the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The examiner will take appropriate action consistent with this decision.

Any question regarding this communication should be directed to Lynne A. Gurley, Supervisory Patent Examiner, at (571) 272-1670.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Paper No. 04

MAY 2 2003

William Shaffer
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

In re Application of:	:	
DARMAWAN, *et al.*	:	
Application No. 10/302,639	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: November 21, 2002	:	
For: LATERALLY DIFFUSED MOS TRANSISTOR (LDMOS) AND METHOD OF MAKING SAME	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 24, 2003.

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

The request meets all the above requirements. The request was signed by William L. Shaffer, an attorney of record in the above identified application and there is no outstanding Office action requiring a response by the applicant.

The request is approved.

The application currently has no attorney of record.

All future communications from the Office will be directed to Henry K. Woodward, at the below-listed address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.

Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Henry K. Woodward
Beyer Weaver & Thomas, LLP
590 West El Camino Real
Mountain View, CA 94040

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GORDON G. WAGGETT PC
3200 SOUTHWEST FREEWAY, SUITE 2355
HOUSTON, TX 77027

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NOV 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Maximillian S. Gremillion	:	
Application No. 10/302,641	:	DECISION GRANTING PETITION
Filed: November 23, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. DRYA,004/CIP	:	

This is a decision on the petition, filed October 24, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 28, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3676 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

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JUN 16 2006

OFFICE OF PETITIONS

GORDON G. WAGGETT, P.C.
3200 SOUTHWEST FREEWAY, SUITE 2355
HOUSTON TX 77027

In re Application of	:	
Maximillian S. Gremillion	:	
Application No. 10/302,641	:	ON PETITION
Filed: November 23, 2002	:	
Attorney Docket No. DRYA,004/CIP	:	

This is a decision on the petition, filed June 14, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

P titioner is advised that the issue fee paid on February 11, 2006, in the above-identified application cannot be r funded. If, however, the above-identified application is again allowed, petitioner may request that it be applied t wards the issue fee required by the new Notice of Allowance.[1]

Further, petitioner should note that in the Change of Correspondence Address submitted June 14, 2006, it requested that the address be changed to Customer No. **42077,** which is already of record. Clarify is required.

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

The examiner of Technology Center AU 3676 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
P titions Examiner
Office of Petitions

CC:
GORDON G. WAGGETT
550 WESTCOTT STREET
SUITE NO. 350
HOUSTON TX 77007-5099

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning th new Issu Fee Transmittal Form PTOL-85(b), which includes th following language thereon: "Commissioner for Patents is request d 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 du or not, the Issue Fee Transmittal Form **must** be compl ted and timely submitted to avoid abandonment. Note th language in bold text on the first pag of the Notice of Allowanc and Fe (s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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MAIL

AUG 16 2006

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

LYON & HARR, LLP
Suite 800
300 Esplanade Drive
Oxnard, CA 93036

In re Application of
Jiang Li *et. al*
Serial No.: 10/302,653
Filed: November 22, 2002
For: **SYSTEM AND METHOD FOR SCALABLE PORTRAIT VIDEO**

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 CFR §1.183 filed June 19, 2006, which is being treated as a petition under 37 C.F.R. § 1.84(a)(2), requesting acceptance of color drawings.

The petition requests that the color drawings identified in Figures 3, be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

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

The application file is being forwarded to the Group technical support staff for entry of the proposed amendment filed with this petition. From there, the application file will be forwarded to Drafting Division, Drawing Review Branch for review of the drawing figures in light of this decision.

The petition is GRANTED.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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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AT&T CORP.
ROOM 2A207
ONE AT&T WAY
BEDMINSTER NJ 07921

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SEP 13 2007

OFFICE OF PETITIONS

In re Application of :
Suresh W.G. Kumar :
Application No. 10/302,662 : DECISION ON PETITION
Filed: November 22, 2002 :
Attorney Docket No. 2002-0168 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 28, 2007, 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 April 5, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed January 5, 2007. Accordingly, the date of abandonment of this application is April 6, 2007. A Notice of Abandonment was mailed on April 30, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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CHRISTOPHER J. WHEWELL
WESTERN PATENT GROUP
6020 TONKOWA TRAIL
GEORGETOWN TX 78628

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JUL 25 2006
OFFICE OF PETITIONS

In re Application of
Danny O. Helton et al.
Application No. 10/302,696
Filed: November 25, 2002
Attorney Docket No.: 112202

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed April 10, 2006, to change the order of the names of the inventors.

The petition is **GRANTED**.

The order of the names of the inventors will be changed as follows:

1. Danny O. Helton
2. David W. Hobson
3. Lawton A. Seal

A corrected filing receipt reflecting the correct order of the names of the inventors is attached.

Additionally, while the petition authorized that $130 be charged to petitioner's deposit account, effective December 8, 2004, the fee for a petition under 37 CFR 1.182 was set at $400. Pursuant to a telephone conversation between the undersigned and Attorney Christopher J. Whewell on July 24, 2006, and per Attorney Whewell's verbal authorization, the total petition fee in the amount of $400 has been charged to petitioner's deposit account no. 50-0818.

This matter is being referred to Technology Center 1744.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/302,696	11/25/2002	1744	898	112202	1	46	10

CONFIRMATION NO. 2894
CORRECTED FILING RECEIPT
OC000000019737311
OC000000019737311

Christopher J. Whewell
Western Patent Group
6020 Tonkowa Trail
Georgetown, TX 78628

Date Mailed: 07/25/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Danny O. Helton, San Antonio, TX;
David W. Hobson, San Antonio, TX;
Lawton A. Seal, Schertz, TX;

Power of Attorney:

Christopher Whewell--37469

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/370,323 04/05/2002

Foreign Applications

If Required, Foreign Filing License Granted: 07/24/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/302,696

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

MOLD REMEDIATION SYSTEM AND METHOD

Preliminary Class

422

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof

unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

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

NOT GRANTED

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

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P.O. BOX 5257
NEW YORK NY 10150-6257

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In re Patent No. 6,850,492 :
Application No. 10/302,709 :
Filing Date: November 22, 2002 :
Issue Date: February 1, 2005 :
Attorney Docket No. **50072.0041US01/NC30633US**:

DECISION GRANTING PETITION

This is a decision on the petition filed May 18, 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 and other typographical errors by way of a Certificate of Correction.

The request is **granted**.

The fee for this request is $130.00. Deposit account 01-0400 will be refunded $270.00, in due course.

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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Paul C. Haughey
TOWNSEND AND TOWNSEND AND CREW, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

MAILED

MAY 1 2 2005

Technology Center 2100

In re Application of:	)	
Jun Zhu	)	
Application No. 10/302,723	)	
Filed: November 22, 2002	)	**DECISION ON REQUEST FOR**
For: HIERARCHICAL BUS	)	**WITHDRAWAL AS ATTORNEY**
ARBITRATION	)	
	)	

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1. 36 and 10.40(c) filed April 04, 2005.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1. 36 was filed on April 13, 2005. The Power Of Attorney revoked all prior Powers Of Attorney and appointed FARJAMI & FARJAMI LLP as the attorneys of record of the instant application. The Power Of Attorney filed April 13, 2005 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by FARJAMI & FARJAMI LLP.

For the above stated reasons, the request is DISMISSED AS MOOT.

No further communication to you regarding this application will be made.

for

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

5/6/05

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DAVID J. POWSNER
NUTTER, MCCLENNEN & FISH L.L.P.
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON, MASSACHUSETTS 02210-2604

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DEC 17 2004

Technology Center 2100

In re Application of: Britton et al.
Application No. 10/302,727
Filed: November 21, 2002
For: METHODS AND APPARATUS FOR STATISTICAL DATA ANALYSIS AND REDUCTION FOR AN ENTERPRISE APPLICATION

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed October 14, 2004, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special is **GRANTED** since all of the requirements for special status under M.P.E.P. §708.02, Section VIII has been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with the procedures set forth in M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

HMJ: 12/08/04

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SOFER & HAROUN, L.L.P.
Suite 910
317 Madison Avenue
New York, NY 10017

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FEB 10 2005

OFFICE OF PETITIONS

In re Patent of :
Richard P. Ver Hage :
Patent No. 6,786,179 :
Issued: September 7, 2004 : ON PETITION
For: REMOVABLE CAP ASSEMBLY :

This is a decision on the Petition, filed December 24, 2004, 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 **granted**.

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
Attorney/Advisor
Office of Petitions

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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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APR 2 0 2006
OFFICE OF PETITIONS

In re Application of	:	
Graessle et al.	:	
Application No. 10/302,734	:	DECISION ON PETITION
Filed: November 21, 2002	:	
Attorney Docket No. 02753-058001	:	

This is a decision on the petition under 37 CFR 1.47(b) filed February 2, 2006, which is being treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.63 where they require that a supplemental declaration be executed by the named inventor.[1]

In view of the efforts recounted in the petition to obtain the signature of David Graessle, it is agreed that justice would be served by waiving the requirement for his signature on a supplemental declaration. Accordingly, the petition is **granted.**

The declaration has been accepted on petition. This application does not have any Rule 1.47 status and no such status should appear in the record. This application need not be returned to this Office for any further consideration under Rule 1.47(b).

The current fee for filing a petition under 37 CFR 1.183 is $400.00. The Office will charge the Deposit Account for the petition fee, as authorized

This matter is being referred to the Office of Patent Publication.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-7-07

TO SPE OF : Technology Center 3737 10/302734

SUBJECT : Request for Certificate of Correction on Patent No.: 7171256 B1

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

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

Thank You For Your Assistance

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

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

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

Comments:

LONG V. LE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER ~~1600~~ 3768

SPE — 3768 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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Nokia
c/o DARBY & DARBY P.C.
P.O. Box 770
Church Street Station
NEW YORK NY 10008-0770

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MAY 19 2010

OFFICE OF PETITIONS

In re Application of
Atul B. Mahamuni
Application No. 10/302,743
Filed: November 22, 2002
Attorney Docket No. **08212/000S045-US0/NC30629**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed March 16, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks a forwarding correspondence address of the first named inventor or a properly intervening assignee.

If the forwarding correspondence address is to the assignee, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *that properly became of record under 37 CFR 3.71.* 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.*

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the 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 inquires concerning this decision should be directed to the undersigned at (571) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **NOKIA, INC.**
6021 CONNECTION DRIVE
MS 2-5-520
IRVING, TX 75039

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

McHALE & SLAVIN, P.A.
4440 PGA BLVD
SUITE 402
PALM BEACH GARDENS, FL 33410

Paper No. 7

In re application of
Simon Dudai et al.
Application No. 10/302,744
Filed: November 21, 2002
For: MOTOR VEHICLE CHAIR SYSTEM FOR PHYSICALLY DISABLED PERSONS

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

This is a decision on the petition filed October 20, 2003 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. There is no fee for this petition.

A grantable petition to make an application special under 37 C.F.R. 1.102(c), MPEP 708.02, Section III requires evidence that the state of health of the applicant is such that he might not be able to assist in the prosecution of the application if it were to run it's normal course, such as a doctor's certificate or other medical certificate.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant. The evidence submitted with the petition is an affidavit from Raul Guim stating that he is at least 65 years of age.

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

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

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

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

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

RAR/cps: 12/9/03

UNITED STATES PATENT AND TRADEMARK OFFICE

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DUANE, MORRIS, LLP
3200 SOUTHWEST FREEWAY
SUITE 3150
HOUSTON TX 77027

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OFFICE OF PETITIONS

In re Application of
Morteza Naghazi
Application No. 10/302,748
Filed: November 22, 2002
Attorney Docket No. D8562-13

ON PETITION

This is a decision on the petition filed May 25, 2005, under 37 CFR 1.181, to withdraw the holding of abandonment.

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

This application became abandoned November 25, 2004 for failure to file a timely response to the non-Final Office Action mailed August 24, 2004. The instant petition and the instant decision precede the mailing of the Notice of Abandonment.

Petitioner claims that the non-Final Office Action mailed August 24, 2004 was never received in that the Office Action was mailed to the office of the prior attorney of record and that a revocation and power of attorney were filed April 9, 2003. Petitioners provide a copy of the revocation and power of attorney as well as a postcard receipt date stamped by the USPTO on April 9, 2003 as proof of filing prior to the date the non-Final Office Action was mailed.

A review of the file confirms that a power of attorney and address change was indeed filed on April 9, 2003 but the USPTO records were not updated until July 8, 2005 when the Notice of Acceptance of Power of Attorney was mailed. While the file reveals that both the non-Final Office Action and the Notice of Acceptance of Power of Attorney were both returned by the USPTO as undeliverable, even after the Notice of Acceptance of Power of Attorney was mailed, petitioners effectively demonstrate their diligent efforts to update the address by customer number and to ensure that correspondence mailed from the USPTO was properly addressed.

The non-Final Office Action was mailed to the wrong address and as petitioners claim, not received. In view of the above, no petition fees are due and none have been charged.

The Notice of Abandonment is withdrawn and this matter is being referred to Technology Center 3736 for appropriate treatment of the amendment filed May 25, 2005

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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G. ROGER LEE
Fish & Richardson P.C.
225 Franklin Street
Boston MA 02110-2804

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MAR 0 9 2006
OFFICE OF PETITIONS

In re Application of	:	
David GRAESSLE et al.	:	
Application No. 10/302,767	:	ON PETITION
Filed: November 21, 2002	:	
Attorney Docket No. 02753-051001	:	

This is in response to the petition under 37 CFR 1.47(b), filed February 2, 2006, which is being treated as petition under 37 CFR 1.183 requesting waiver of the requirements of 37 CFR 1.64.

The petition is **GRANTED.**

Petitions under 37 CFR 1.47 are only applicable to the initial execution of an original oath or declaration by a given inventor and are not applicable to the reexecution of another or supplemental oath or declaration by that originally signing inventor. Petitioner has shown that the inability to again obtain the signature from the originally signing inventor David Braessle is, not withstanding the exercise of reasonable care and diligence, due to circumstances beyond his control.

It is noted that the oath or declaration submitted is not complete. However, where neither the original oath or declaration nor the substitute oath or declaration is complete in itself, but each oath or declaration names all of the inventors and the two taken together give all the required data, no further oath or declaration is needed. See MPEP 602.02.

As the instant petition is being treated as a petition under 37 CFR 1.183, the petition fee of $400 set forth in 37 CFR 1.17(f) is required. Petitioner has already paid $200 for consideration of the instant petition. Accordingly, an additional $200 will be charged to petitioners Deposit Account No. 06-1050.

Telephone inquiries regarding this decision should be directed to David Bucci at (571) 272-7099.

Brian Hearn
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

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Paper No. 7

TIMOTHY M HONEYCUTT ATTORNEY AT LAW
P O BOX 1577
CYPRESS, TX 77410

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AUG 06 2003

OFFICE OF PETITIONS

In re Application of Lujan et al. Application No. 10/302,794 Filed: November 22, 2003 Attorney Docket No. SASL:011\HON	DECISION GRANTING PETITION UNDER 37 CFR 1.137(f)

This is a decision on the "Petition to Revive Unintentionally Abandoned Application Pursuant to 37 C.F.R. 1.137(b) & (f)," filed June 10, 2003.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on February 19, 2003. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

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

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

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

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request to show the projected publication date of May 27, 2004 accompanies this decision on petition.

The application file is being forwarded to Technology Center 3723 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Nancy Johnson
Petitions Attorney
Office of Petitions

Enc: Notice Regarding Rescission of Nonpublication Request (1 page)

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/302,794	8/14/03	RANDALL LUJAN, ET AL.	SASL:011/HON

Title:
HIGH SELECTIVELY SLURRY DELIVERY SYSTEM

Art Unit	Paper Number
	9

Correspondence Address:
TIMOTHY M. HONEYCUTT
P.O. BOX 1577
CYPRESS, TEXAS 77410

PATENT & TRADEMARK OFFICE

OCT 10 2003

LICENSING & REVIEW

Licensee under 35 U.S.C. 184 is hereby granted to file in any foreign country a patent application and any amendments thereto corresponding to the subject matter of this U.S. application identified above and/or any material accompanying the petition. This license is conditioned upon modification of any applicable secrecy order and is subject to revocation without notice.

License Number: 531,365

Grant Date: 10-Oct-03

Approved:
for Commissioner of Patents and Trademarks

This license empowers the filing, the causation and the authorization of the filing of a foreign application or applications on the subject matter identified above, subsequent forwarding of all duplicate and formal papers and the prosecution of such aplication or applications.

This license is granted under 37 CFR 5.15(a)

This license is to be retained by the licensee and may be used at anytime on or after the date thereof. This license is not retroactive unless specifically indicated.

The grant of this license does not in any way lesson the responsibility of the licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations, especially with respecct to certain countries, of other agencies, particularly the Department of the Treasury; Office of Munitions Control, Department of State (with respect to Arms, Munitions and Implements of War); the Bureau of Trade Regulation, Office of Export Adminstration, Department of Commerce; and the Department of Energy.

LICENSE FOR FOREIGN FILING

[Title 35, United States Code (1952) Sections 184, 185, 186]

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Timothy M. Honeycutt
Attorney at Law
P.O. Box 1577
Cypress, Texas 77410-1577

In re:	Lujan et al	:	DECISION ON REQUEST
Serial No.:	10/302,794	:	UNDER 37 CFR 5.25
Filing date:	November 22, 2002		
Docket No:	SASL;011/HO		

Title: HIGH SELECTIVITY SLURRY DELIVERY SYSTEM

In view of the communication(s) filed August 14, 2003, it has been determined that a retroactive license for foreign filing under 35 U.S.C. 184 be granted with respect to the filings listed below. The petition complies with 37 C.F.R. 5.25 in that there is an adequate showing that the subject matter in question was not under secrecy order, that the license was diligently sought after discovery of the proscribed foreign filing, and that the material was filed abroad without the required license under 37 C.F.R. 5.11 first having been obtained through error and without deceptive intent.

Country	Date
KOREA	February 19, 2003

Approved:

Ian J. Lobo
Patent Examiner
Group 3600
(703) 306-4161

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DALLAS TX 75380

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OFFICE OF PETITIONS

In re Patent No. 6,884,145	:	
Issued: 26 April, 2005	:	
Application No. 10/302,794	:	ON PETITION
Filed: 22 November, 2002	:	
Atty Dckt No. SASL:011\HON	:	

This is a decision on the petition filed on 19 December, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] See Official Gazette of 22 June, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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OFFICE OF PETITIONS

In re Application of	:
Foore and Johnson	:
Application No. 10/302,797	: DECISION ACCORDING STATUS
Filed: 21 November, 2002	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 2479.2137-000	:

This is in response to the petition filed under 37 CFR 1.47(a) on 31 March, 2003.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Lawrence R. Foore, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, the petitioners have established, that a copy of the above-identified application was sent on two occasions to the non-signing inventor's last known address. However, the non-signing inventor failed to return a signed declaration naming his as a joint inventor along with Kevin P. Johnson.

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

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

The application is being forwarded to Technology Center 2600 for examination in due course.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

Lawrence R. Foore
1078 Helena Avenue
Palm Bay, FL 32907

In re Application of
Foore et al.
Application No. 10/302,797
Filed: 21 November, 2002
For: RANDOM EARLY DETECTION OVER WIRELESS LINKS

Dear Mr. Foore:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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OFFICE OF PETITIONS

In re Application of	:	
FOORE, et al.	:	
Application No. 10/302,797	:	DECISION ON PETITION
Filed: November 21, 2002	:	TO WITHDRAW
Attorney Docket No. 2479.2137-000	:	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 11, 2006.

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

A review of the file record indicates that the power of attorney to David J. Thibodeau of HAMILTON BROOK SMITH & REYNOLDS PC has been revoked by the assignee of the patent application on February 13, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **VOLPE AND KOENIG, P.C.**
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

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Paper No. 5

ROPES & GRAY
ONE INTERNATIONAL PLACE
BOSTON, MA 02110

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OFFICE OF PETITIONS

In re Application of
Keating et al.
Application No. 10/302,812
Filed: November 22, 2002
Attorney Docket No. HYDR-P02-004

ON PETITION

This decision concerns the May 9, 2003 "Petition to Correct Filing Date under 37 CFR 1.10(c)."

The petition is **GRANTED**.

The petition requests a filing date of November 22, 2002 rather than the presently accorded filing date of November 21, 2002, on the basis that the application was deposited on November 22, 2002 in the U.S. Postal Service (USPS) "Express Mail Post Office to Addressee" service pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of the "Express Mail" mailing label bearing the number "EL805340847US" and containing a "date-in", as well as a USPS date-stamp, of November 22, 2002. The same mailing label number also appears on the application transmittal which itemizes the application papers being mailed on that date. In addition, the Office has verified through the official USPS website, www.usps.gov (Track & Confirm), that the package mailed under this label had been accepted by the USPS on November 22, 2002 at 11:18 pm. The petition is thus granted.

No petition fee is owed.

The application file is being returned to the Office of Initial Patent Examination for correcting the filing date to November 22, 2002, and for mailing a corrected filing receipt reflecting that filing date. Upon competition of the pre-examination process, the application file will be forwarded to the appropriate Technology Center for examination in due course.[1]

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

RC Tang
Petitions Attorney
Office of Petitions

---

[1] The Office acknowledges receipt with the petition of an authorization to charge Deposit Account No. 18-1945 of: the $205 1-month extension-of-time fee; the $375 application basic filing fee (small entity); the extra claims fees ($252 + $423 +$140; small entity); and the $65 (small entity) surcharge for late filing of an acceptable oath/declaration.

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Paper No. 5

EITAN, PEARL, LATZER & COHEN ZEDEK LLP
10 ROCKEFELLER PLAZA, SUITE 1001
NEW YORK, NY 10020

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OFFICE OF PETITIONS

In re Application of
Eliezer Krausz and Avi Chiproot
Application No. 10/302,836
Filed: November 25, 2002
Attorney Docket No. P-2402-US1

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.182, filed July 15, 2003, to change the order of the names of the inventors.

The petition is **GRANTED**.

The order of the names of the inventors has been changed as follows:

1. KRAUSZ, Eliezer
2. CHIPROOT, Avi

The petition fee has been charged to Deposit Account No. 05-0649, as authorized.

Please find enclosed a corrected filing receipt.

This application is being forwarded to Technology Center 3679 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

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NIXON & VANDERHYE P.C.
11TH FLOOR
901 NORTH GLEBE ROAD
ARLGINTON, VA 22203-1808

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OFFICE OF PETITIONS

In re Patent No. 7,146,016	:	
Application No. 10/302,839	:	
Filed: November 25, 2002	:	ON PETITION
Issued: December 5, 2006	:	
Attorney Docket No. 2672-28	:	

This is a decision on the request filed March 7, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The requisite fee of $130.00 in accordance with 37 CFR 3.81(b) will be charged to petitioner's deposit account as authorized.

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 Petitions Examiner Liana Walsh at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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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 14 2004

OFFICE OF PETITIONS

Applicant: Guiso-Maclouf et al.
Appl. No.: 10/302,896
Filing Date: November 25, 2002
Title: POLYPEPTIDES CONTAINING POLYMORPHISMS OF THE REPEATED REGIONS OF PERTACTIN IN BORDETELLA PERTUSSIS, BORDETELLA PARAPERTUSSIS, AND BORDETELLA BRONCHISEPTICA, THEIR USE IN DIAGNOSTICS, AND IN IMMUNOGENIC COMPOSITIONS
Attorney Docket No.: 02356.0081
Pub. No.: US 2003/0180307 A1
Pub. Date: September 25, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on November 25, 2003 for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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BIRCH STEWART KOLASCH & BIRCH
P O BOX 747
FALLS CHURCH, VA 22040-0747

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MAR 1 5 2006
OFFICE OF PETITIONS

In re Application of	:
Nee Young Lee	:
Application No. 10/302,929	: DECISION GRANTING PETITION
Filed: November 25, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0465-0976P	:

This is a decision on the petition, filed March 14, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 3, 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 3744 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

ANTONELLI TERRY STOUT AND KRAUS
SUITE 1800
1300 NORTH SEVENTEENTH STREET
ARLINGTON, VA 22209

In re Application of :
Saito, et al :
Application No. 10/302,953 : DECISION GRANTING PETITION
Filed: November 25, 2002 :
Attorney Docket No. 503.30370CC7 :

This is a decision on the petition filed March 17, 2003, requesting that the above-identified application retain the presently accorded a filing date of November 25, 2002, with figures 43-54 of the drawings as part of the original disclosure.

On November 25, 2002, the above-identified application was filed. On January 17, 2003, the Office of Initial Patent Examination mailed a "Notice of Omitted Items of a Nonprovisional Application" (the "Notice"), stating that the application had been accorded a filing date of November 25, 2002, however, figures 43-54 of the drawings appeared to have been omitted. The Notice allowed a non-extendable two month period for reply beginning from the mailing date of the Notice.

In response, on March 17, 2003, applicants filed the present petition, copies of figures 43-54, and a postcard receipt date-stamped by the Office showing that, among other items, forty (40) sheets of drawings were received on November 25, 2002.

Upon review of the record, figures 43-54 of the drawings have not been located among the application papers. However, the evidence is convincing that the application papers deposited November 25, 2002, included figures 43-54 of the drawings, which were subsequently misplaced by the Office. Therefore, the application, including figures 43-54 of the drawings, was complete on filing and entitled to the presently accorded filing date of November 25, 2002.

Accordingly, the petition is granted.

Applicant is advised that the Notice was sent in error and is vacated. Therefore, no petition fee is necessary and the fee of $130.00 will be refunded in due course.

Petitioner's argument that the above-cited application is a continuation application that properly incorporated by reference a prior application, which included Figures 43-54 is noted. This argument will not be engaged further because petitioner has established by an Office date stamped postcard that Figures 43-54 were among the original application papers filed November 25, 2002.

The application file is being returned to the Office of Initial Patent Examination for further processing with

the presently accorded filing date of November 25, 2002, using the forty (40) pages of drawings filed November 25, 2002.

Any inquiries related to this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (703)305-0010

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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Mailed: 11-30-05

NE
Paper Number _____

In re application of
Mathieu et al.
Serial No. 10/302,969
Filed: November 25, 2002
For: USING ELECTRIC DISCHARGE MACHINE TO MANUFACTURE PROBES

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE NOTICE OF ALLOWANCE, filed June 7, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment mailed May 02, 2005, be withdrawn since the applicant did not receive the NOTICE OF ALLOWANCE AND FEE(S) DUE letter mailed December 28, 2004.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.03(c) - NEW PROCEDURE TMOG 1170 O.G. 114). A review of the petitioner's evidence indicates that the request has merit. The evidence presented is sufficient to establish that the applicant or any authorized representative of the applicant did not receive the NOTICE OF ALLOWANCE AND FEE(S) DUE letter mailed December 28, 2004. The evidence provided includes a statement by the petitioner that the Office letter mailed December 28, 2004 was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Office letter mailed December 28, 2004 was not received. Also provided is a copy of the attorney's application docket records where the Office letter mailed December 28, 2004 would have been posted had it been timely received.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt re-mailing of the NOTICE OF ALLOWANCE AND FEE(S) DUE letters originally mailed December 28, 2004 and restarting of the period of response from the re-mail date thereof.

The Petition is **GRANTED**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

N. KENNETH BURRASTON
KIRTON & MCCONKIE
P.O. BOX 45120
Salt Lake City, Utah 84145-0120

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays 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)
6857566	2005-02-22	10302976	2002-11-25	070457.1247

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

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/David Schalk/	Date (YYYY-MM-DD)	2009-08-10
Name	David Schalk	Registration Number	60527

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.

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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. 6857566
Issue Date: February 22,2005
Application No. 10302976
Filed: November 25,2002
Attorney Docket No. AP34865-070457.1091

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

This is a decision on the electronic petition, filed August 10,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 10,2009 . 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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P.O. Box 1450
Alexandria, VA 22313-1450
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OBLON, SPIVAK, MCCLELLAND
MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

COPY MAILED
SEP 23 2008

In re Application of :
Jahns, et al. :
Application No. 10/302,996 : DECISION ON PETITION
Filed: November 25, 2002 :
Docket No.: 230826US0 :

This is a decision on the petition under 37 CFR 1.181, filed May 15, 2008, to withdraw the holding of abandonment.

The petition is GRANTED.

The application was held abandoned for failure to timely take action following the mailing of the BPAI decision mailed February 25, 2008 which set a two month non-extendible period of time for reply. Notice of Abandonment was mailed May 2, 2008.

Petitioners assert that a reply in the form of a request for continued examination (RCE) and submission were timely filed April 25, 2008.

The RCE has been located in the application file. In view thereof, the Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 1700 for consideration of the RCE filed April 25, 2008.

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

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.
10/302,997	11/25/2002	Maria Viacheslavovna Vitushkina	230895US0	2587

22850 7590 01/28/2008
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
ROBINSON, HOPE A

ART UNIT	PAPER NUMBER
1652	

NOTIFICATION DATE	DELIVERY MODE
01/28/2008	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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Alexandria, VA 22313-1450
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JAN 28 2008

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

In re Application of:	:
Vitushkina et al.	:
Serial No.: 10/302,997	: PETITION DECISION
Filed: November 25, 2002	:
Attorney Docket No.: 230895US0	:

This is in response to the petition under 37 CFR § 1.181, filed November 9, 2007, requesting that the finality of the Office action of September 11, 2007 be withdrawn.

BACKGROUND

More recently, the examiner mailed a final Office action on November 16, 2006 setting a three month statutory limit for reply. At the time of this final Office action, claims 1-18 and 20-44 were pending and claims 5-17, 32 and 44 were withdrawn from consideration on the merits as being directed toward a non-elected invention. The examiner indicated claims 12-18 and 20-31 as being allowed; and rejected claims 1-4 and 33-43 under 35 USC 112, first paragraph, for lacking written description. The examiner additionally rejected claims 1-4 and 33-43 under 35 USC 112, first paragraph, for lacking scope of enablement. The examiner also indicated on page 9 of this final Office action that claims 2-18 and 20-31 were free of the art. However, this statement appears to be in error since the examiner stated that claims 5-17, 32 and 44 were withdrawn from consideration on the merits.

In response to the final Office action of November 16, 2006, applicants submitted an amendment after final rejection on May 16, 2007 which comprised arguments and amendments to claims 1, 12, 16, 20, 22, 28, 30, 32, 33, 37, 42 and 44, as well as the cancellation of claims 39-41. It is noted that applicants, along with this response, concurrently filed a Notice of Appeal.

The examiner mailed an Advisory action on June 27, 2007 indicating that "[t] he amendmentary language [present in the amendment filed by applicants on May 16, 2006] raises new issues under 35 U.S.C. 112, first paragraph, written description and the added material introduces new matter." The examiner stated in this Advisory action that the amendment would not be entered, and that for purposes of Appeal, claims 1-4 and 33-43 would remain rejected. The examiner did

not indicate in the Advisory action what claims were withdrawn or if any claims remained allowed.

On July 16, 2007, applicants filed a proper Request for Continued Examination (RCE) under 37 C.F.R § 1.114 and, therefore, the amendments submitted by the applicants on May 16, 2007 were subsequently entered into the case and prosecution of this case was continued. There were no new amendments to the claims submitted with the RCE filed by applicants.

On September 11, 2007, the examiner mailed a final Office action setting a three month statutory limit for reply. At the time of this final Office action, claims 1-18, 20-38 and 42-44 were pending and claims 5-11, 32 and 44 were withdrawn from examination on the merits as these claims were directed toward a non-elected invention. The examiner rejected claims 1-4, 12-18, 20-31, 33-38 and 42-43 under 35 USC 112, second paragraph, and indicated that these claims were indefinite. The examiner additionally objected to claim 38, however, only indicated minor informalities in claims 1 and 12. This may have been an inadvertent error as it appears that the examiner meant to object to claims 1 and 12, and not claim 38.

In response thereto, applicants filed this petition on November 9, 2007, requesting that the finality of the Office action of September 11, 2007 be withdrawn.

DISCUSSION

In the petition filed on November 9, 2007, applicants argue that the body of the final Office action of September 11, 2007 was inconsistent with the Office action summary page (PTOL-326) which indicated that the case was finally rejected. Applicants support for this contention is that the examiner did not indicate in the body of the final Office action that the Office action was final, and did not provide any reasoning for making the Office action final. Thus, it is applicants' position that the final Office action of September 11, 2007 was incorrect and made in error in that the examiner did not intend for this Office action to be a final rejection.

Applicants additionally argue:

> The Examiner makes no effort to show how all claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114. Even if the claims are drawn to the same "invention," Applicants note that the scope of the claims after the Request for Continued Examination is different from those of record prior to this filing. Further, *the Examiner does not show how the claims entered by the Request for Continued Examination could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Indeed, the rejections issued in the Office Action dated September 11, 2007, are not on the grounds or art of record prior to filing the Request for Continued Examination.* (emphasis added)

MPEP § 706.07(b) states:

> ..[I]t would not be proper to make final a first Office action in a continuing or substitute application or an RCE where that application contains material which was presented in the earlier application after final rejection or closing of prosecution but was denied entry because (A) new issues were raised that required further consideration and/or search, or (B) the issue of new matter was raised.

It is clear that the rejection of claims 1-4, 12-18, 20-31, 33-38 and 42-43 in the final Office action of September 11, 2007 were necessitated due to applicants' amendments to the claims on May 16, 2007 (entered at the time of applicants' filing of the RCE on July 16, 2007). However, the finality of the final Office action of September 11, 2007 was improper because the examiner had previously refused entry of the after final amendment submitted on May 16, 2007 due to new search, consideration and new matter issues. According to the MPEP, the refusal of entry of the amendment of May 16, 2007 due to a new consideration/search and/or an issue of new matter *precludes a final Office action on the first Office action after the filing of the RCE.*

Although it cannot be absolutely determined if the examiner intended the Office action of September 11, 2007 to be a non-final Office action, the case was made final none-the-less. Therefore, it is decided that the finality of the Office action of September 11, 2007 was improper and premature for the reasons set forth above.

DECISION

The petition is **GRANTED.**

This application will be forwarded to the examiner for an action not inconsistent with this decision.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Bruce Kisliuk
Director, Technology Center 1600

Docket No. 230895US0

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF: :

Maria Viacheslavovna VITUSHKINA, et al. : EXAMINER: ROBINSON, H.A.

SERIAL NO. : 10/302,997 :

FILED: NOVEMBER 25, 2002 : ART UNIT: 1652

FOR: ESCHERICHIA BACTERIA TRANSFORMED WITH THE yddG GENE TO ENHANCE L-AMINO ACID PRODUCING ACTIVITY

PETITION OF HOLDING OF FINALITY UNDER 37 C.F.R. §1.181

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

Mutually agreed to grant

SIR:

Applicant hereby petition the Office's indication of finality appearing on Office Action Summary. Applicants request that, upon review of this petition and the relevant prosecution history, this indication of finality will be withdrawn and the Office Action mailed on September 11, 2007, will be treated as a non-final Office Action.

The relevant facts in this case are:

- On November 16, 2006, the Examiner issued a final rejection on the merits.
- On May 16, 2007, Applicants filed an Amendment and Request for Reconsideration along with Notice of Appeal.
- On June 27, 2007, the Examiner issued an Advisory Action alleging that "the amendmentary language raises new issues under 35 U.S.C. 112, first paragraph, written description and the added material introduces new matter."

- On July 16, 2007, Applicants filed a Request for Continued Examination requesting entry and consideration of the response filed on May 16, 2007.
- On September 11, 2007, the Examiner issued a new Office Action in which the claims were objected to due to informalities that existed in the claims that were subject to the November 16, 2006, Office Action. The Examiner also rejected the claims as being indefinite based on an improper interpretation and application of the transitional term "consisting of". A rejection under 35 U.S.C. 112, first paragraph, written description (new matter) was properly not issued. The body of the Office Action does not indicate that the action is "final" much less offer any justification for such holding, but the Office Action Summary (and the Office's Patent Application Information Retrieval system) indicates that this Office Action is final.

Applicants submit that indication of finality on Office Action Summary mailed together with the Office Action dated September 11, 2007, is in error. Specifically, the indication on the Office Action Summary is inconsistent with the body of the Office Action. Accordingly, based on the body of the Office Action, the Examiner did not intend for the Office Action mailed September 11, 2007, to be final.

Furthermore, in the body of the Office Action the Examiner does not provide any basis or support so as to justify a holding of finality. The Examiner makes no effort to show how all claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114. Even if the claims are drawn to the same "invention," Applicants note that the scope of the claims after the Request for Continued Examination is different from those of record prior to this filing. Further, the Examiner does not show how the claims entered by the Request for Continued Examination could have been finally

rejected *on the grounds and art of record* in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Indeed, the rejections issued in the Office Action dated September 11, 2007, are not on the grounds or art of record prior to filing the Request for Continued Examination.

Applicants submit that this petition should be **GRANTED** and the Office Action mailed September 11, 2007, should be **Non-Final**. Early notification of such action is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Stephen G. Baxter
Attorney of Record
Registration No. 32,884

Vincent K. Shier, Ph.D.
Registration No. 50,552

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413-2220
(OSMMN 08/03)

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1940 DUKE STREET
ALEXANDRIA, VA 22314

Mail Date: 04/20/2010

Applicant	: Maria Viacheslavovna Vitushkina	: DECISION ON REQUEST FOR
Patent Number	: 7666655	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/302,997	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/25/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **417** 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)
6758390	2004-07-06	10303010	2002-11-25	PAT 52192-2

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

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Jeffrey W. Wong/	Date (YYYY-MM-DD)	2009-06-22
Name	Jeffrey W. Wong	Registration Number	46414

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 6758390
Issue Date: July 6,2004
Application No. 10303010
Filed: November 25,2002
Attorney Docket No. PAT 52192-2

:
: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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **AUGUST 24, 2005**

TO SPE OF : ART UNIT **2622**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10303023** Patent No.: **6917441B2**

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

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

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

SPE **2622** **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FSP LLC
P.O. BOX 890
VANCOUVER, WA 98666

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FEB 20 2007

OFFICE OF PETITIONS

In re Application of :
Irl N. Duling et al :
Application No. 10/303,050 : ON PETITION
Filed: November 25, 2002 :
Attorney Docket No. P 291433 :

This is a decision on the petition under 37 CFR 1.137(b), to revive the above-identified application and a petition under 37 CFR 1.28 to make Entity Status large from small, filed August 15, 2006.

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

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed March 22, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 23, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

There is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Issue Fee Transmittal Form should be completed and returned to the Publishing Division, Box Issue Fee, within ONE MONTH from the mail date of this decision.

The petition under 37 CFR 1.28 is **ACCEPTED.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210. This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: Issue Fee Transmittal Form (PTOL-85b)

PART B - FEE(S) TRANSMITTAL

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

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

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

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

Certificate of Mailing or Transmission

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

(Depositor's name)

(Signature)

(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.

TITLE OF INVENTION:

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE

EXAMINER	ART UNIT	CLASS-SUBCLASS

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1_____

2_____

3_____

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

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

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

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

4a. The following fee(s) are submitted:

☐ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): **(Please first reapply any previously paid issue fee shown above)**

☐ A check is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

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

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

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MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON VA 22215

12/6/07

In re Application of:
Chermoni, Israel
Serial No.: 10/303,064
Filed: Nov. 25, 2002
Docket: 36259
Title: CATHETER AND METHOD OF ITS USE

DECISION ON PETITION

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on Nov. 29, 2007.

The petition is **GRANTED**.

Pursuant to applicant's request filed on Nov, 29, 2007, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of six (6) months. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to Henry C. Yuen, Special Programs Examiner, whose telephone number is (571) 272-4856.

Frederick R. Schmidt, Director
Technology Center 3700

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Hara et al.	:	
Application No. 10/303090	:	
Filing or 371(c) Date: 11/25/2002	:	
Attorney Docket Number:	:	
1965.1006	:	ON PETITION

This is a decision on the Petition to Withdraw Holding of Abandonment, filed February 12, 2008. The petition is properly treated under 37 C.F.R. § 1.181.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed July 12, 2007. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on January 13, 2008. A Notice of Abandonment was mailed January 24, 2008.

Applicant's Assertion

Applicant files the present petition and asserts that a timely response to the Office action was filed on January 14, 2008, including a three (3) month extension of time. In support of this assertion, applicant files a copy of the reply, along with a copy of a return-receipt postcard which acknowledges receipt by this Office of: a Request for Continued Examination ("RCE") and an Amendment, on January 14, 2008. Accord 37 CFR 1.6(a)(1).

Review of Office records

A review of Office records also reveals that the Office received the reply, including an Amendment and a three-month Extension of Time and fee on January 14, 2008[1].

[1] This Office mailed a Notice of Improper RCE on January 29, 2008, acknowledging receipt of the RCE, and informing Applicant that the RCE was an improper response because prosecution was not closed in the application.

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

No petition fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 1633 for entry and consideration of the amendment filed in response to the Office action in due course. Accord MPEP 706.07(h)(III)(A)(1).

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

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 3, 2005

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction on Patent No.: 6,853,484

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:

DREW A. DUNN
SUPERVISORY PATENT EXAMINER

SPE

2872
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

BAKER & BOTTS
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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OFFICE OF PETITIONS

In re Application of	:	
Robert et al.	:	DECISION GRANTING
Application No. 10/303,112	:	PETITION
Filed: November 22, 2002	:	
Attorney Docket No. 35541-PCT-USA-A	:	

This is a decision on the petition under 37 CFR 1.10(c), filed December 16, 2002, requesting that the above-identified application be accorded a filing date of November 22, 2002, rather than the presently accorded filing date of November 23, 2002.

Petitioner alleges that the application was deposited in Express Mail service on November 22, 2002. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. ET346767358US. Although the "date-in" indicated on the Express Mail label is November 23, 2002, the label contains a United States Postal Service (USPS) stamp of November 22, 2002. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**. The $130.00 petition fee will be credited to Deposit Account No. 02-4377, as requested in the petition.

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to November 22, 2002.

Telephone inquiries should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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AUG 2 7 2004

OFFICE OF PETITIONS

In re Application of	:	
Michel Gilbert, et. al.	:	
Application No. 10/303,118	:	NOTICE
Filed: November 21, 2002	:	
Attorney Docket No. 019633-000113US	:	

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

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

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

The Office acknowledges receipt of $1,330 for the issue fee, $300 for the publication fee, and $30 for ten (10) advance soft copies. These fees have been charged to petitioner's deposit account, as authorized in the communication filed July 26, 2004.

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

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
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ALEXANDRIA, VA 22313-1450
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FEB 1 9 2004

Office of Petitions
Group 3000

Frishauf, Holtz, Goodman & Chick, PC
767 Third Avenue, 25th Floor
New York, NY 10017-2023

Paper No. 9

In re application of	:	**DECISION ON PETITION**
Mark M. Mayers et al.	:	**TO MAKE SPECIAL**
Application No. 10/303,127	:	**(APPLICANT'S AGE)**
Filed: November 22, 2002	:	

For: METHOD AND SYSTEM FOR INSURING USERS OF ELECTRONIC TRADING SYSTEMS OR EXCHANGES AND TRADITIONAL ESTABLISHED COMMODITY EXCHANGES AGAINST WEATHER-RELATED RISKS AND HAZARDS

This is a decision on the petition submitted on April 7, 2003 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.
The petition is **GRANTED**.

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

The evidence submitted with the petition are declarations signed by each inventor indicating that both Mr. Mayers and Mr. Fromer are at least 65 years of age.

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

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the

application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

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

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

KJD/mjz: 2/5/04

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Michel Gilbert, et al.	:	
Application No. 10/303,128	:	NOTICE
Filed: November 21, 2002	:	
Attorney Docket No. 019633-000112US		

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3201.

This file is being forwarded to Publishing Division for further processing.

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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EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
Gilbert et al. :
Application No. 10/303,134 :
Filed: November 21, 2002 :
Attorney Docket No. 019633-000115US :

ON PETITION

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 Paralegal Liana Chase at (703) 306-0482. Any telephone inquiries after approximately **September 24, 2004** should be directed to (571) 272-3206.

This matter is being referred to the Publishing Division for processing into a patent.

Liana Chase for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Pet. Dec.

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

In re Application of	:	
Francois M. DeGevay	:	
Serial Number: 10/303,135	:	PETITION UNDER
Filed: November 25, 2002	:	M.P.E.P.708.02 IV
For: SAFETY TIRE AND METHOD	:	

This is in response to the petition filed May 3, 2004, requesting that the above-identified application be granted Special Status under Section 708.02 IV of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 IV of the MPEP is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C. Knode

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

Harry M. Weiss
WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE, AZ 85251

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 9, 2005

TO SPE OF : ART UNIT 3729

SUBJECT : Request for Certificate of Correction on Patent No.: 6,857,183

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.

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

Comments:

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3729

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

Bradley Crawford
McDonnell Boehnen Hulbert & Berghoff
32nd Floor
300 S. Wacker Drive
Chicago IL 60606

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OFFICE OF PETITIONS

In re Application of :
Jeffery S. Carter et al. :
Application No. 10/303,150 :
Filed: November 22, 2002 : DECISION ON PETITION
Attorney Docket No. 3003/1 :
Title: SUBSTITUTED BEZOPYRAN :
DERIVATIVES FOR THE TREATMENT OF :
INFLAMMATION :

This is a decision on the "Petition to the Commissioner Pursuant to Rule 37 C.F.R. §1.182," requesting that pages 62, 237, 284, 319, 332, 342, and 349 of the specification be accorded a filing date of November 22, 2002, as part of the original disclosure[1].

On November 22, 2002, the above-identified application was deposited. On January 16, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application (Notice), advising applicant that the application appeared to have been deposited without pages 62, 237, 284, 319, 332, 342, and 349 of the specification. The notice further indicated that an executed oath or declaration, the surcharge associated with the late filing of an oath or declaration, and a substitute specification would be required.

1 As the petition was not filed within two-months of the mailing of the Notice of Omitted Items, a petition under 37 C.F.R. §1.53 could not have been filed. As such, the petition was filed under 37 C.F.R. §1.182.

Regarding the later, the notice indicated that pages 123, 130, 133, 135, 141, 143, 146, 150, 155, 164, 169-173, 175-177, 179-180, 182-184, 186-187, 192, 194, 199-201, 203, 205-209, 212, 214, 216, 220-222, 224-225, 228, 233, 236, 274, 310, 313, 315, 341, 344-345, 350-354, and 356-357 were not in compliance with 37 C.F.R. §1.52(a).

In response, on July 18, 2003, applicants filed the present petition. The petition is further accompanied by a copy of pages 62, 237, 284, 319, 332, 342, and 349 of the specification, a postcard receipt which shows that 372 sheets of specification were received in the Office on November 22, 2002, and an assertion that pages 62, 237, 284, 319, 332, 342, and 349 of the specification were originally included on filing. Applicants request that pages 62, 237, 284, 319, 332, 342, and 349 of the specification be accorded a filing date of November 22, 2002, as part of the original submission..

Although petitioner filed a petition under 37 CFR §1.182 on July 18, 2003, petitioner was not relieved of the requirement to submit a timely reply to the Notice to File Missing Parts of Application[2]. Because petitioner failed to submit a timely and proper reply to the Notice prior to August 17, 2003,[3] within the meaning of 37 CFR 1.135(b), **this application is properly held abandoned as of March 17, 2003.**

Under the circumstances of this application, petitioner must file a petition to revive under 37 CFR §1.137, pay the proper petition fee, and submit the required items listed in the Notice within **ONE (1) month** of this decision before the petition under 37 CFR §1.182 may be addressed on its merits. No extensions of time are permissible. Unless petitioner can demonstrate that petitioner was "unavoidably" prevented from submitting a proper reply to the Notice, a petition under 37 CFR §1.137(b) is suggested. The petition under 37 CFR §1.182 will remain in the file until such time as petitioner has filed a grantable petition to revive under 37 CFR §1.137.

As such, the petition under 37 C.F.R. §1.182 is **DISMISSED.**

---

2 See 37 CFR §1.135(b).

3 Extensions of time up to five (5) months from the date the Notice was mailed were available under 37 CFR §1.136(a). The maximum extendable period for reply expired on August 17, 2003. As of the mail date of this decision, petitioner has not submitted an executed oath or declaration, the surcharge associated with the late filing of an oath or declaration, and a substitute specification.

The application file will be retained in the Office of Petitions for one (1) month.

Any questions *concerning this decision* should be directed to Attorney Paul Shanoski at (703) 305-0011.

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

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Paper No. 8

Bradley Crawford
McDonnell Boehnen Hulbert & Berghoff
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Chicago IL 60606

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JUN 0 7 2004

OFFICE OF PETITIONS

In re Application of
Jeffery S. Carter et al.
Application No. 10/303,150
Filed: November 22, 2002
Attorney Docket No. 3003/1
Title: SUBSTITUTED BEZOPYRAN DERIVATIVES FOR THE TREATMENT OF INFLAMMATION

DECISION ON RENEWED PETITION

This is a decision on the renewed petition under 37 C.F.R. §1.182 and the petition to withdraw the holding of abandonment, requesting that pages 62, 237, 273, 284, 319, 332, 342, and 349 (8 pages) of the specification be accorded a filing date of November 22, 2002, as part of the original disclosure. The renewed petition was received on December 15, 2003. The Office regrets the delay in issuing this decision.

On November 22, 2002, the above-identified application was deposited. On January 16, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Missing Parts of Nonprovisional Application (Notice)," advising applicant that the application appeared to have been deposited without pages 62, 237, 284, 319, 332, 342, and 349 of the specification. The notice further indicated that an executed oath or declaration, the surcharge, associated with the late filing of an oath or declaration, and a substitute specification would be required.

Regarding the later, the notice indicated that pages 123, 130, 133, 135, 141, 143, 146, 150, 155, 164, 169-173, 175-177, 179-180, 182-184, 186-187, 192, 194, 199-201, 203, 205-209, 212, 214, 216, 220-222, 224-225, 228, 233, 236, 271, 310, 313, 315, 341, 344-345, 350-354, and 356-357 were not in compliance with 37 C.F.R. §1.52(a).

In response, on July 18, 2003, applicants filed the original petition. The petition was further accompanied by a copy of pages 62, 237, 284, 319, 332, 342, and 349 of the specification, a

postcard receipt which shows that 372 pages of specification were received in the Office on November 22, 2002, and an assertion that pages 62, 237, 284, 319, 332, 342, and 349 of the specification were originally included on filing. Applicants requested that pages 62, 237, 284, 319, 332, 342, and 349 of the specification be accorded a filing date of November 22, 2002, as part of the original submission.

The original petition was dismissed via the mailing of a decision on November 14, 2003, which set forth the following reason for dismissal:

Although petitioner filed a petition under 37 C.F.R. §1.182 on July 18, 2003, petitioner was not relieved of the requirement to submit a timely reply to the Notice to File Missing Parts of Application[1]. Because petitioner failed to submit a timely and proper reply to the Notice prior to April 17, 2003[2], within the meaning of 37 C.F.R. §1.135(b), this application is properly held abandoned as of March 17, 2003.

The renewed petition contains a certificate of mailing dated December 15, 2003. Since the decision on the renewed petition was mailed on November 14, 2003, and this decision set a one-month period for response, a one-month extension of time has been charged to Petitioner's Deposit Account, as authorized in the petition.

With the renewed petition, Petitioner has alleged that a response to the notice was submitted on June 16, 2003, along with a five-month extension of time (when in fact, only a three-month extension of time was required). Petitioner has also submitted a postcard receipt. Although the postcard receipt does not mention the petition for the extension of time, the Office's electronic records have been consulted, and it is clear that a five-month extension of time was received in June of 2003. As such, the difference has been refunded to Petitioner's deposit account.

Petitioner has also included a declaration,[3] pages 123, 130, 133, 135, 141, 143, 146, 150, 155, 164, 169-173, 175-177, 179-180, 182-184, 186-187, 192, 194, 199-201, 203, 205-209, 212, 214, 216, 220-222, 224-225, 228, 233, 236, 271, 310, 313, 315, 341, 344-345, 350-354, and 356-357 (a total of 61 pages) which the notice indicated were not in compliance with 37 C.F.R. §1.52(a).

The postcard receipt Petitioner has included with the renewed petition shows that a transmittal letter, a declaration, 61 machine readable pages, and 8 "additional pages" were received in the Office on June 19, 2003. Petitioner has also included a copy of the transmittal letter which accompanied this submission, and it is noted that it contains a certificate of mailing dated June 16, 2003.

As such, it is clear that the response to the notice was timely received due to the concurrently submitted extension of time, and was subsequently misplaced by the Office. As such, the holding of abandonment is hereby **WITHDRAWN**.

---

1 See 37 C.F.R. §1.135(b).

2 Extensions of time up to five (5) months from the date of the Notice was mailed were available under 37 C.F.R. §1.136(a). The maximum extendable period for reply expired on August 17, 2003. As of the mail date of this decision, petitioner has not submitted an executed oath or declaration, the surcharge associated with the late filing of an oath or declaration, and a substitute specification.

3 It is noted that the declaration contains initialed but un-dated changes, which renders it unacceptable pursuant to MPEP 605.04(a).

Regarding the petition under 37 C.F.R. §1.182, the postcard submitted with the original petition indicates that 372 pages of spec, claims, and abstract were received in the Office on November 22, 2002.

Upon review of the record, pages 62, 237, 273, 284, 319, 332, 342, and 349 have not been located among the application papers. However, the evidence is convincing that the application papers deposited on November 22, 2002 included these 8 sheets, and these 8 sheets were subsequently misplaced in the Office.

Therefore, the application, including these 8 sheets, was complete on filing and entitled to a filing date of November 22, 2002 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The potion of the notice pertaining to pages 62, 237, 273, 284, 319, 332, 342, and 349 was sent in error, and that portion is hereby **VACATED**. Therefore, no petition fee is necessary. The petition fee of $130 will be refunded to petitioner's Deposit Account.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 22, 2002, using the original application papers filed on that date, as well as pages 62, 237, 273, 284, 319, 332, 342, and 349 of the specification submitted with the renewed petition.

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

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

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GLOBAL PATENT DEPARTMENT
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ST. LOUIS, MO 63006

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OFFICE OF PETITIONS

In re Application of	:	
Jeffery S. Carter et al	:	
Application No. 10/303,150	:	ON PETITION
Filed: November 22, 2002	:	
Attorney Docket No. 3003/1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 4, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed June 13, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 14, 2005.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No. 6

DUNLAP, CODDING & ROGERS P.C.
PO BOX 16370
OKLAHOMA CITY OK 73114

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JUN 1 2 2003

OFFICE OF PETITIONS

In re Application of
Weder, et al.
Application No. 10/303,159
Filed: November 22, 2002
Attorney Docket No. 8403.734
For: COVERING FOR A FLORAL GROUPING OR FLOWER POT

: DECISION GRANTING
: PETITION

This is a decision on the petition under 37 CFR 1.10(c), filed June 3, 2003, requesting that the above-identified application be accorded a filing date of November 22, 2002 rather than the presently accorded filing date of November 21, 2002.

Petitioners request the later filing date on the basis that the application was deposited in Express Mail service of the United States Postal Service (USPS) on November 22, 2002, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of Express Mail label no. EV158899109US showing a "date-in" of 11/22/02 **and** a USPS date stamp of NOV 22 2002. The same Express Mail label number is listed on the original Utility Patent Application Transmittal found in the application file.

The evidence presented establishes that the Express Mail package associated with Express Mail label no. EV158899109US was deposited with the USPS on November 22, 2002.

Accordingly, the petition is granted.

A Rule 10 petition is a feeless petition. Pursuant to petitioners' authorization, deposit account no. 04-1700 will be refunded the $130.00 petition fee.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to **November 22, 2002**.

Any inquiries related to this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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NOV 1 2 2004

OFFICE OF PETITIONS

In re Application of :
Michel Gilbert et al :
Application No. 10/303,161 : NOTICE
Filed: November 21, 2002 :
Attorney Docket No. 019633-000116US :

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

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

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

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

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

This file is being referred to Technology Center AU 1652 for appropriate action on the amendment filed October 5, 2004.

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

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SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Patent No. 6,723,545	:	
Issue Date: April 20, 2004	:	
Application No.: 10/303,162	:	NOTICE
Filed: November 21, 2002	:	
Attorney Docket No.: 019633-000114US	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed September 27, 2004 (certificate of mailing date September 21, 2004).

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

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. The change of status to a large entity has been entered and made of record.

This file is being forwarded to the Files Repository.

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

E Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions

0 7 MAY 2009

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P.O. BOX 10395
CHICAGO IL 60610

In re Application of	:
Dorab Patel, et al.	: DECISION ON PETITIONS
Application No. 10/303,167	: UNDER 37 CFR 1.78(a)(3) AND
Filed: November 22, 2002	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 9623-552 (Y00436US00)	:

This is a decision on the "Petition to Correct Priority Claim Under 37 C.F.R. §1.78(a)(3)" filed 23 January 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications. The petition is being treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6). Applicant has provided payment of the petition fee.

The petition is **DISMISSED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional and provisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1) above.

The reference to the prior-filed applications on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed non-provisional application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (see 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. See Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). Note MPEP §§ 201.06(c) and 608.04(b).

The reference to international application number PCT/US01/16926 is further improper. The present application is a continuation of international application PCT/US01/16927.

Before the petition under 37 CFR § 1.78(a)(3) and (a)(6) can be granted, a renewed petition and either an Application Data Sheet (37 CFR 1.76(a)(5)) or a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

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

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

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

By fax: (571) 273-0459
ATTN: Office of PCT Legal Administration

Any questions concerning this matter may be directed to Derek A. Putonen at (571) 272-3294.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

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P.O. BOX 10395
CHICAGO IL 60610

In re Application of	:
Dorab Patel, et al.	: DECISION ON PETITIONS
Application No. 10/303,167	: UNDER 37 CFR 1.78(a)(3) AND
Filed: November 22, 2002	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 9623-552 (Y00436US00)	:

This is a decision on the "Renewed Petition to Correct Priority Claim Under 37 C.F.R. §1.78(a)(3)" filed 27 May 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications. The petition is being treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6). Applicant has provided payment of the petition fee.

The petition is **DISMISSED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional and provisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The renewed petition does not comply with item (1) above.

The reference to the prior-filed applications on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed provisional application. As detailed in the decision mailed 07 May 2009, an incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (see 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. See Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). Note MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR § 1.78(a)(3) and (a)(6) can be granted, a renewed petition and either an Application Data Sheet (37 CFR 1.76(a)(5)) or a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

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

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

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

By fax: (571) 273-0459
ATTN: Office of PCT Legal Administration

Any questions concerning this matter may be directed to Derek A. Putonen at (571) 272-3294.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

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In re Application of	:
Dorab Patel, et al.	: DECISION ON PETITIONS
Application No. 10/303,167	: UNDER 37 CFR 1.78(a)(3) AND
Filed: November 22, 2002	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 9623-552 (Y00436US00)	:

This is a decision on the "Supplemental Renewed Petition to Correct Priority Claim Under 37 C.F.R. §1.78(a)(3)" filed 11 September 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications. The petition is being treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6). Applicant has provided payment of the petition fee.

The petitions are **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional and nonprovisional applications was submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an

amendment to the first sentence of the specification following the title, as provided by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should <u>not</u> be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should <u>not</u> be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Derek A. Putonen at (571) 272-3294. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 3688 for appropriate action on the amendment submitted 11 September 2009 including consideration by the examiner of the claim for benefit of the prior-filed applications.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

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Paper No. 4

ALVIN S. BLUM
2350 DELMAR PLACE
FORT LAUDERDALE, FL 33301

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APR 0 1 2003

OFFICE OF PETITIONS

In re Application of	:	
Fernandez	:	
Application No. 10/303,170	:	DECISION GRANTING
Filed: November 25, 2002	:	PETITION
Attorney Docket No. 30448	:	

This is a decision on the petition filed January 23, 2003, to establish that Figures 3, 4, and 7 were part of the originally filed application.

On November 25, 2002, the application was filed.

On January 3, 2003, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" stating that the application had been accorded a filing date of November 25, 2002, and advising applicants that Figures 3, 4, and 7 described in the specification appeared to have been omitted.

In response, the present petition was filed alleging that Figures 3, 4, and 7 were deposited on November 25, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "3 drawing sheets "[1] on November 25, 2002. Petitioner has also submitted a copy of the missing documentation- 1 sheet of drawing.

Upon review of the record, Figures 3, 4, and 7, deposited on November 25, 2002, have not been located. However, the evidence is convincing that the application papers deposited on November 25, 2002, included Figures 3, 4, and 7, and that the figures were subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of Figures 3, 4, and 7 submitted with the petition will be used for examination purposes.

A refund of the petition fee will be scheduled.

The Notice mailed January 3, 2003, was sent in error and is hereby vacated.

---

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

The portion of the postcard receipt stating that 3 sheets of drawings are being filed is legible. However, petitioner should note that if a future postcard receipt is not legible, then the postcard may not serve as prima facie evidence of receipt of the items on the postcard.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 25, 2002, using the application papers filed on November 25, 2002, and the copy of 1 sheet of drawing consisting of Figures 3, 4, and 7 filed on January 23, 2003.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6930775
Issue Date: August 16,2005
Application No. 10303172
Filed: November 22,2002
Attorney Docket No. ARC-14650-1

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

This is a decision on the electronic petition, filed March 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 March 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.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,930,775	2005-08-16	10303172	2002-11-22	ARC-14650-1

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	/john schipper/	Date (YYYY-MM-DD)	2010-03-04
Name	John F. Schipper	Registration Number	26994

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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/303,187	11/25/2002	Franz Josef Staffler	476698	3285

30955 7590 06/21/2010
LATHROP & GAGE LLP
4845 PEARL EAST CIRCLE
SUITE 201
BOULDER, CO 80301

EXAMINER
SUERETH, SARAH ELIZABETH

ART UNIT	PAPER NUMBER
3749	

NOTIFICATION DATE	DELIVERY MODE
06/21/2010	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patent@lathropgage.com

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LATHROP & GAGE LLP
4845 PEARL EAST CIRCLE
SUITE 201
BOULDER CO 80301

In re Application of:
F.J. STAFFLER, et al.
Serial No.: 10/303,187
Filed: Nov. 25, 2002
Docket: 476698
Title: STREAMLINED BODY AND COMBUSTION APPARATUS

DECISION ON PETITION TO WITHDRAW HOLDING OF FINALITY

This is a decision on the petition filed on May 18, 2010 to withdraw the finality of the Office action of March 18, 2010. 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, the applicant requests withdrawal of the finality of the Office action mailed March 18, 2010. The applicant argues that some claims were improperly rejected in the Non-Final Office Action mailed on June 9, 2009, that unamended dependent claims 8, 22, 26, 33, 35, 38, 45, 46 and 49, existing in substantially the same format prior to the Non-final Office Action, were only properly rejected for the first time in the Final Office Action, which properly pointed to support in the prior art, and that pertinent prior art was referenced for the first time in the Final Office Action, thus the applicant believes the Final Office Action is premature and should have given an opportunity to respond. These arguments were considered and found unpersuasive.

The Record shows that:

1. The Non-final Office Action was mailed on June 9, 2009 in which all claims were rejected. Claims 4-6, 19, 22, 24, 26, 28, 29, 39, 40, 41 and 50, were rejected under 35 U.S.C § 102(b) as being anticipated by *Bryce* (U.S. Pat. 3,605407) and claims7, 8, 10-12, 33-38, 44, 47 and 49 were rejected under 35 U.S. C. § 103(a) as being obvious over *Bryce* in view of *Bailey* (U.S. Pat. 2,920,445).
2. A response with some amended claims was filed on December 9, 2009. In particular, the independent claims were substantively amended while the dependent claims were not.

3. The Final Office Action was mailed on March 18, 2010, finally rejecting all the claims under 35 U.S.C. § 103(a). Claims 5, 6, 19, 22, 24, 26, 28 and 50-56, were rejected as being obvious over *Bryce* in view of *Muscatell* (U.S. Pat. 4,432,516) and claims 7, 8, 10-12, 33-36, 38, 44-46 and 49, were rejected as obvious over *Bryce* to *Muscatell* in view of *Bailey*. The double-patenting provisional rejections were withdrawn because copending Application No. 10/851,904 had been abandoned.
4. The current petition to withdraw finality of the Final Office Action was filed on May 18, 2010.

Discussion and Analysis

The petitioner argues that the rejection of many of the claims in the Non-final Office Action was not proper because some claims or their subject matter were not specifically mentioned in the body of the discussion in the rejection. A review of the Office Action mailed on June 9, 2009 shows examiner's analysis provided sufficient basis for one to recognize how the examiner interpreted and applied the prior art references in the rejection of the claims. For example, in paragraph 3 of the Non-final Office Action mailed on June 9, 2009, the examiner wrote that "because the airfoil disclosed by Bryce has the identical structure as applicant's airfoil, it is regarded as being capable of allowing air to impact the body and producing laminar flow as claimed". This explanation clearly indicates the reasons why at least claims 22 and 26, were rejected. MPEP § 2131 requires that to be anticipatory, a prior art reference must *explicitly or inherently* teach each element of the claimed invention. Examiner set forth observations as to how the references are reading on the claims. Thus, as well, the grouping of claims here was not inappropriate or in violation of MPEP § 707.07(d) which states that "a plurality of claims should never be grouped together in a common rejection, unless that rejection is equally applicable to all claims in the group".(emphasis added) The references were applicable to all the claims rejected therefrom.

In the amendment of December 9, 2009, Applicant successfully overcame the 35 U.S.C. § 102 and § 103 rejections in the Non-final Office Action. However, applicant's amendments to the independent claims, which automatically amended the scope of the dependent claims, necessitated a further search, and a new ground of rejection resulted. Examiner referenced the *Muscatell* patent in view of the *Bryce* patent, thereby maintaining the rejections of all claims under 35 U.S.C § 103. (*See* 3 in Record, *supra)* Applicant amended his independent claims, by, among other minor corrections, adding the limitation that the airfoil has a "continuously convex curve". This limitation was not presented in the claims previously, and a new reference was applied. This new ground for rejection was clearly necessitated by the applicant's amendment. The final rejection is proper in accordance with MPEP § 706.07(a), which states that, "the 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)."

The review of the final Office action clearly indicates that the new ground of rejection was necessitated by the applicant's amendments, and was therefore appropriate. In the petition, Petitioner argues that the prior art rejection was not proper and, therefore, the finality of the Final

Office Action mailed on March 18, 2010 must be withdrawn. This petition does not support the relief requested by applicant. At most, petitioner is raising issues or arguments that are appealable, and that address the propriety of the examiner's rejection of the claims under 35 U.S.C § 103.

Conclusion

For the foregoing reasons, the relief requested by petitioner will not be granted. Specifically, the finality of the Office Action dated March 18, 2010 is proper.

The application is being forwarded to the examiner via the examiner via the SPE of Art Unit 3749 for consideration of the Rule 116 amendment filed on May 18, 2010. 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". The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED.

Robert Olszewski, Director
Technology Center 3700

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DEC 11 2003

#5

William P. Niedermeyer
1024 Mt. Mary Drive
Green Bay WI 54311

In re Application of	:	
William P. Niedermeyer	:	
Serial No.: 10/303,215	:	DECISION ON PETITION
Filed: November 25, 2002	:	
For: Disposable Front Opening Garment	:	
With Pre-Selected Pad Shape and Location:		

This is in response to applicants' petition filed February 14, 2003 to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle

John E. Kittle
Director,
Technology Center 3700/2900

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#4

MAILED

MAR 17 2004

Office of the Director
Group 3600

Wendy K. Buskop
Buskop Law Group, P.C.
Suite 500
1717 St. James Place
Houston TX 77056

In re application of :
Richard Glee Wood et al. :
Application No. 10/303,217 :
Filed: November 25, 2002 :
For: SMART CARD FOR ACCELERATED PAYMENT OF MEDICAL INSURANCE

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

This is a decision on the petition submitted on November 25, 2002 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age. The delay in deciding this petition is regretted.

The petition is **GRANTED**.

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

The evidence submitted with the petition is a copy of Mr. Wood's Texas driving license which indicates that he is at least 65 years of age.

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

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

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

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

KJD/mjz: 3/12/04

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HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

COPY MAILED

JUL 15 2005

OFFICE OF PETITIONS

In re Application of :
Davis, et al. : DECISION ON PETITION
Application No. 10/303,219 :
Filed: November 25, 2002 :
Docket No.: HOOO3294 (HOOO-1- :
3294) :

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

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from 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)." This is not a final agency decision.

This application became abandoned September 29, 2004 for failure to timely reply to the non-final Office action mailed June 29, 2004. The non-final Office action set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136 were timely requested. Notice of Abandonment was mailed March 31, 2005 and remailed May 20, 2005.

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

The present petition fails to satisfy requirement (3) set forth above. Petitioner has failed to present 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.

The Office 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 have been "unavoidable." See, 37 CFR 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). 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). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

Petitioners attribute the delay in timely responding to the Office communication to a change of correspondence address. Petitioners state that at the time of filing of the application, their correspondence address was as set forth in the non-final Office action, but that prior to the mail date of the non-final Office action, their correspondence address had changed.

Petitioners' arguments have been considered, but are not found persuasive. The Office communication was properly mailed September 29, 2004 to the correspondence address made of record by applicants at the time of filing of the application.

Petitioners are advised that where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply), an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (See, MPEP 601.03), and

must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. See, MPEP 711.03(c).

Petitioners have failed to establish that that they adhered to 37 CFR 1.33 and MPEP 601.03 by timely notifying the Office of the change of correspondence address. Accordingly, petitioners have failed to establish that the failure to timely submit a proper reply to the non-final Office action was unavoidable.

Any renewed petition must be accompanied by evidence that sufficiently establishes that the failure to timely reply to the Office communication was unavoidable.

ALTERNATE VENUE

Petitioners may wish to consider filing a petition stating that the delay was unintentional. Petitioner's attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

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

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

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

By facsimile: (703) 872-9306

By hand:

U.S. Patent and Trademark Office
Customer Window
Mail Stop Petition
Randolph Building
Dulany Street
Alexandria, VA 22314

The requested change of correspondence address submitted herewith has been entered into the record.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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SEP 27 2005

OFFICE OF PETITIONS

In re Application of	:
Davis, et al.	: DECISION ON PETITION
Application No. 10/303,219	:
Filed: November 25, 2002	:
Docket No.: HOOO3294 (HOOO-1-3294)	:

This is a decision on the renewed petition under 37 CFR 1.137(a), filed September 12, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from 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)." This is not a final agency decision.

This application became abandoned September 29, 2004 for failure to timely reply to the non-final Office action mailed June 29, 2004. The non-final Office action set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136 were timely requested. Notice of Abandonment was mailed March 31, 2005 and remailed May 20, 2005. A petition under 37 CFR 1.137(a) was filed June 3, 2005 and dismissed July 15, 2005.

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

The present petition fails to satisfy requirement (3) set forth above. Petitioner has failed to present 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.

The Office 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 have been "unavoidable." See, 37 CFR 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). 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). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

Petitioners continue to attribute the delay in timely responding to the Office communication to a change of correspondence address. Petitioners further argue that they fully complied with the requirements for change of correspondence address on for about September 2003. Evidence of the alleged change of correspondence address, however, does not accompany the instant renewed petition.

Any renewed petition must be accompanied by evidence that sufficiently establishes that the failure to timely reply to the Office communication was unavoidable and should include supporting documentation of the change of correspondence address submitted on or about September 2003.

ALTERNATE VENUE

Petitioners may wish to consider filing a petition stating that the delay was unintentional. Petitioner's attention is directed

to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

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

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

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

By facsimile: (571) 272-8300

By hand: U.S. Patent and Trademark Office
Customer Window
Mail Stop Petition
Randolph Building
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

HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

COPY MAILED

FEB 0 2 2006

OFFICE OF PETITIONS

In re Application of :
Davis, et al. : DECISION ON PETITION
Application No. 10/303,219 :
Filed: November 25, 2002 :
Docket No.: HOOO3294 (HOOO-1- :
3294) :

This is a decision on the petition renewed under 37 C.F.R. § 1.137(b), filed January 9, 2006 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned June 19, 2004 for failure to timely reply to the non-final Office action mailed March 18, 2004. The non-final Office action set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. This decision precedes Notice of Abandonment. A petition under 37 CFR 1.137(a) was filed June 3, 2005 and dismissed July 15, 2005. A renewed petition under 37 CFR 1.137(a) was filed September 12, 2005 and dismissed September 27, 2005.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

This application will be forwarded to Technology Center 2800 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FEB 23 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

KALOW & SPRINGUT LLP
488 MADISON AVENUE
19TH FLOOR
NEW YORK NY 10022

In re Application of:
Ralph Philip Highnam et al.
Application No. 10/303,225
Filed: November 25, 2002
For: **COMPARING IMAGES**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition, filed on December 8, 2004, under M.P.E.P. § 708.02(X): Inventions relating to HIV/AIDS and Cancer.

The petition is **GRANTED**.

The petition meets the requirements of MPEP § 708.02 (X).

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FEB 18 2010

OFFICE OF PETITIONS

EUGENE LIEBERSTEIN
2151 LONG RIDGE ROAD
STAMFORD CT 06903

In re Patent No. 6,908,607		
Issue Date: June 21, 2005	:	
Application No. 10/303,273	:	DECISION ON PETITION
Filed: November 25, 2002	:	
Attorney Docket No. D-FRDBL-2	:	

This is a decision on the petition to reinstate an expired patent under 37 CFR 1.378(c), filed November 19, 2009.

The petition under 37 CFR 1.378(c) is **GRANTED**.

The above-identified patent issued June 21, 2005. Accordingly, the first maintenance fee could have been paid during the period from June 21, 2008 through December 21, 2008 without surcharge, or with a late payment surcharge during the period from December 22, 2008 through June 21, 2009. No maintenance fee having been received, the patent expired on June 22, 2009.

Since the instant petition was filed 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 in this case is accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MORRISON & FOERSTER LLP
425 MARKET ST
SAN FRANCISCO CA 94105-2482

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MAY 06 2005

OFFICE OF PETITIONS

In re Application of	:	
Nicolas Anderson	:	DECISION ON PETITION
Application No. 10/303,304	:	
Filed: November 25, 2002	:	
Attorney Docket No. 78230	:	

This is a decision on the petition filed August 30, 2004, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely reply to the Notice to File Missing Parts, mailed January 3, 2003. This Notice set a period for reply of two months from the mailing date of the Notice to submit an executed oath or declaration and a surcharge for its late filing. No oath or declaration and surcharge having been received, the above identified application became abandoned on March 4, 2003. A Notice of Abandonment was mailed on February 17, 2004.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted an executed declaration together with the surcharge for its late filing.

The Revocation and Power of Attorney filed on November 10, 2004 has been entered. While a courtesy copy of this decision is being mailed to the address given on the petition, future correspondence will be mailed solely to the above address of record.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Fitch Even Tabin & Flannery
120 South Lasalle St
Suite 1600
Chicago IL 60603

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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SILVERBROOK RESEARCH
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

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AUG 3 1 2004

OFFICE OF PETITIONS

In re Application of	:	
Kia Silverbrook	:	
Application No. 10/303,348	:	ON PETITION
Filed: November 23, 2002	:	
Attorney Docket No. MJT004US	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the response in a timely manner in reply to the Office letter mailed October 1, 2003, which set a statutory period for reply of one (1) month. Accordingly, the above-identified application became abandoned on November 2, 2003.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $950 extension of time submitted with the petition on June 28, 2004 was subsequent to the maximum period obtainable for reply, petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

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

The application file is being forwarded to Technology Center 2853.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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THE BOC GROUP, INC.
575 MOUNTAIN AVENUE
MURRAY HILL NJ 07974-2064

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MAR 0 4 2005

OFFICE OF PETITIONS

In re Application of :
John Dickinson :
Application No. 10/303,372 :
Filed: November 25, 2002 :
Attorney Docket No. M01A277 :

ON PETITION

This is a decision on the petition, filed February 4, 2005, 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. 6,852,644 on February 8, 2005.

The petition is **DISMISSED as moot.**

Unfortunately, the petition reached the appropriate official for decision after the patent issued on the above-identified application. The inconvenience caused petitioner in this matter is sincerely regretted.

The information disclosure statement (IDS) has been placed in the file of the above-identified application without further consideration. See 37 CFR 1.97(i).

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.

Petitioner is reminded that petitions to withdraw from issue should either be faxed to the Office of Petitions at (571) 273-0025 or hand carried to Madison Bldg. West, 600 Dulany St. Alexandria Va 22314.

Petitioner's attention is 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 (571) 272-3208.

This patented file is being referred to Files Repository.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

JOAN PENNINGTON
UNIT 1804
535 NORTH MICHIGAN AVENUE
CHICAGO, IL 60611

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JUN 1 1 2003

OFFICE OF PETITIONS

In re Application of
Thomas Barnes et al
Application No. 10/303,375
Filed: November 25, 2002
Attorney Docket No. LX24D1

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 1700.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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.
10/303,402	11/25/2002	Kiyoshi Aida	275837US6	3133

22850 7590 07/24/2007
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
BETIT, JACOB F

ART UNIT	PAPER NUMBER
2164	

NOTIFICATION DATE	DELIVERY MODE
07/24/2007	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Bradley D. Lytle
OBLON, SPIVAK McCLELLAND
MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, Virginia 22314

MAILED
JUL 24 2007
Technology Center 2100

In re Application of:
Kiyoshi AIDA et al.
Application No. 10/303,402
Filed: November 26, 2002
For: INFORMATION PROCESSING APPARATUS, INFORMATION PROCESSING METHOD, INFORMATION PROCESSING PROGRAM AND INFORMATION PROCESSING SYSTEM

DECISION SUA SPONTE WITHDRAWING HOLDING OF ABANDONMENT

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

This application is held abandoned for failure to timely file a proper reply to the Final Office Action mailed on 10 October 2006. A Notice of Abandonment was mailed on 27 June 2007.

A review of the file record indicates that a copy of the post card listing: Credit Card Form for $910.00; Request for Continued Examination; and Petition for One-Month Extension of Time was submitted on 08 May 2007. The copy of the Return Acknowledgment Postcard has a USPTO stamp indicating receipt at the USPTO on 12 February 2007. The copies of the Request for Continued Examination (RCE) and the Request/Petition for Extension of Time were also provided on 08 May 2007. However, these copies of RCE and Request for Extension of Time were not signed by applicant's attorney. Thus, the application was finally held abandoned on 27 June 2007.

The undersigned called applicant's attorney, Mr. Bradley D. Lytle, on 20 July 2007 to get a confirmation that the original RCE filed 12 February 2007 was in fact signed on the date of 12 February 2007. Assistant to Mr. Bradley D. Lytle confirmed the original RCE was signed by Mr. Bradley D. Lytle on 12 February 2007 and confirmed that copies of the correspondences sent to the U.S. Patent and Trademark Office are usually not signed.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the holding of Abandonment is hereby withdrawn.

The original Request for Continued Examination (RCE) and Petition for One-month Extension of Time filed 12 February 2007, acknowledged as having been received in the USPTO on 12 February 2007, is not of record in the application. The copies of the original RCE (filed 08 May 2007 and 25 June 2007) and the Petition for One-month Extension of Time are hereby considered timely.

The application is being forwarded to the Technology Center Support Staff to process and enter the re-submitted RCE filed 25 June 2007 and the Request for Extension of Time filed 08 May 2007.

Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Adrian T. Calderone
DILWORTH & BARRESE, LLP
333 Earle Ovington Blvd.
Uniondale NY 11553

COPY MAILED

DEC 0 1 2004

OFFICE OF PETITIONS

Applicant: Marchant et al.
Appl. No.: 10/303,452
Filing Date: November 25, 2002
Title: Apparatus For Countercurrent Contacting Of Gas And Solids
Pub. No.: US 2004/010449 A1
Pub. Date: May 27, 2004

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on July 21, 2004 for above-identified application.

While, the request is unsigned and noncompliant, a draft response has been prepared.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains the wrong title on the front page of the patent application publication.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The error in the title on the front page of the publication is an Office error, however the error in the title is not a material error under 37 CFR 1.221(b). The error in the title does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent because the

[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).

specification, claims and abstract were correctly printed.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

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

By facsimile: 703-872-9306

The application will be examined in due course.

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

Enclosure: Corrected Filing Receipt

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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ADVANCED TECHNOLOGY MATERIALS, INC.
7 COMMERCE DRIVE
DANBURY CT 06810

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OFFICE OF PETITIONS

In re Application of	:	
Xu et al.	:	
Application No. 10/303,479	:	DECISION ON PETITION
Filed: 25 November, 2002	:	
Atty Docket No. ATMI-537	:	

This is a decision on the petition filed under 37 CFR 1.181 on 14 August, 2003, requesting that the period for reply set forth in the Office communication mailed on 10 February, 2003, be reset to run from the date on which the Office communication was actually received at the correspondence address of record.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioners.

The petition is granted.

Petitioners assert that applicants' attorney was informed, via telephone, by the examiner on 6 August, 2003, that the Notice mailed on 10 February, 2003, had been mailed and that no response had been received. Petitioner's counsel further avers that after she informed the examiner that the Notice had not been received, a copy of the Notice was faxed to applicants on 6 August, 2003. A copy of the facsimile cover sheet transmitting the Notice to applicants is included with the petition.

The new oath or declaration required by the Notice mailed on 10 February, 2003, was supplied with the petition filed on 14 August, 2003. As such, petitioner, in essence, requests that the declaration filed on 14 August, 2003, be accepted as timely filed.

The Office will grant a petition to restart the previously set period for reply to an Office action to run from the postmark date shown on the Office mailing envelope which contained the Office action when the following criteria are met:

(A) the petition is filed within 2 weeks of the date of receipt of the Office action at the correspondence address;
(B) the reply period was for payment of the issue fee, or the reply period set was 1 month or 30 days; and
(C) the petition includes (1) evidence showing the date of receipt of the Office action at the correspondence address (e.g., copy of the Office action having the date of receipt of the Office action at the correspondence address stamped thereon, etc.), (2) a copy of the envelope which contained the Office action showing the postmark date, and (3) a statement setting forth the date of receipt of the Office action at the correspondence address and stating that the Office action was received in the postmarked envelope.[1]

Although petitioners assert that the Office communication was never received in the mail, petitioners have shown that the Office communication was received by facsimile on 6 August, 2003. A substantial portion of the set reply period had elapsed on the date of receipt.

No petition fee is due.

In view of the specific circumstances of this case, it is determined that petitioners have presented an acceptable showing that the Notice was not timely received.

The application is being referred to the Publishing Division for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[1] MPEP 710.06

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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APR 12 2005

NOR'EAST MINIATURE ROSES
P.O. BOX 440
902 ZENNON WAY
ARROYO GRANDE CA 93421

In re Application of	:
John Saville	:
Serial No.: 10/303,485	: PETITION DECISION
Filed: November 25, 2002	:
Attorney Docket No.:	:

This is in response to the petition under 37 CFR 1.137(b) which is first being considered under 37 CFR 1.181, filed July 18, 2004, 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 a first Office action to applicant, who was prosecuting the application himself, on October 6, 2003, setting a three month shortened statutory period for reply. Applicant replied on February 25, 2004 (Certificate of Mailing date), including a request and fee for a one month extension of time. The fee was paid by check and did not authorize charge to a Deposit Account. The reply was fully responsive to the Office action and also included a change of address form. It is noted that all papers in the reply are signed by William De Vor, not by the inventor. The reply, however, was not timely filed as a two month extension of time was required and was improper as it was not signed by the inventor. In order for the reply to have been timely a two month extension of time fee would have had to have been paid. By the time the reply was processed and brought to the attention of the examiner it appears that the full six month statutory period had elapsed. As a consequence thereof a Notice of Abandonment was mailed to applicant at applicant's previous address.

This petition was filed on July 18, 2004, under 37 CFR 1.137(b). It is noted that the petition and all other papers accompanying the petition are signed by William De Vor, not the inventor. Inasmuch as applicant did make a reply within the six month statutory period for reply, it was requested that the petition be first considered under 37 CFR 1.181. Applicant's statements accompanying the petition indicate that applicant made an inadvertent error in determining the due date for reply and miscalculated the amount of the fee required for the required extension of time fee to make the reply timely. In view of these statements, the Notice of Abandonment was not mailed in error, other than to applicant's previous address. (Applicant's mailing address has since been corrected.)

The petition is **DENIED**.

The application will be forwarded to the Office of Petitions for consideration of the petition under 37 CFR 1.137(b).

Applicant should note that a petition under 37 CFR 1.137(b) can only be granted if a proper reply has been made to the outstanding Office action. As indicated above, the reply made is defective as it is not signed by the inventor or an authorized representative of the inventor or assignee. It appears that a Power of Attorney by Assignee was attempted to be filed in November, 2004, but the Power appears to be incomplete and would not be valid for papers filed prior to the submission of the Power.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 703-308-3824 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Jasemine C. Chambers
Director, Technology Center 1600

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NOR'EAST MINIATURE ROSES
P.O. BOX 440
902 ZENNON WAY
ARROYO GRANDE, CA 93421

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JUL 1 5 2005

OFFICE OF PETITIONS

In re Application of :
John Saville :
Application No. 10/303,485 : ON PETITION
Filed: November 25, 2002 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.137(b), filed July 16, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 6, 2003, which set a shortened statutory period for reply of three (3) months. A one (1) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on after midnight February 6, 2004.

In response to the non-final Office action, petitioner hereby submits $665 for the petition to revive fee, the statement of unintentional delay, $155 for a two (2) month extension of time, a Change of Correspondence Address, a Statement under 37 CFR 3.73(b), and a Rescission of Previous Nonpublication Request/Notice of Foreign Filing filed July 16, 2004.

The Office acknowledges receipt of an amendment, a one (1) month extension of time, and Change of Correspondence Address filed on March 1, 2004.

The Change of Correspondence Address filed July 16, 2004 has been entered.

Since petitioner has met the requirements to revive this application, pursuant to 37 CFR 1.137(b), the petition is **GRANTED**.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $155 extension of time submitted with the petition on July 16, 2004 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

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 accompanies this decision on petition.

The Office sincerely apologizes for the delay in responding to the instant petition, and any inconvenience caused to petitioner by this delay.

The application file is being referred to Technology Center Art Unit 1661, for review of the amendment filed March 1, 2004.

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HANLEY, FLIGHT & ZIMMERMAN, LLC
150 S. WACKER DRIVE
SUITE 2100
CHICAGO, IL 60606

Mail Date: 04/20/2010

Applicant	: Mark J. Nixon	: DECISION ON REQUEST FOR
Patent Number	: 7574509	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/303,513	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/25/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1222** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : October 10,2007

TO SPE OF : ART UNIT 3677

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/303,564 Patent No.: 6866457 B2

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

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

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: _____

Thomas B. Will
Supervisory Patent Examiner
Group 3600

SPE

3677
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DAFFER MCDANIEL LLP
P.O. BOX 684908
AUSTIN TX 78768

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NOV 13 2007

OFFICE OF PETITIONS

In re Patent No. 6,868,911 :
Issue Date: March 22, 2005 :
Application No. 10/303,581 : DECISION GRANTING PETITION
Filed: November 25, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 5812-00100 :

This is a decision on the petition, filed July 3, 2007, which is being treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen-months after filing. *See* 37 CFR 1.137(f).

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

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on November 21, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country. Therefore, pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c), petitioner failed to timely notify the USPTO of the filing of a counterpart application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the USPTO of the filing of a counterpart application in an eighteen-month publication country must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 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 as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

This application matured into Patent No. 6,868,911 on March 22, 2005. Therefore, no further action being required, this patented file is being forwarded to Files Repository.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Robert P. Renke
Suite 250
28333 Telegraph Road
Southfield, Mil 48034

MAILED
FROM DIRECTORS OFFICE

MAR 1 8 2005

TECHNOLOGY CENTER 3600

In re Application of:
Peter Schwarzler, et.al.
Application No.10/303,597
Filed: November 25, 2002
Attorney Docket No. GKNG 1123
PUS

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Aug. 22, 2008

TO SPE OF : ART UNIT 2841

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/303613 Patent No.: 7361844

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.

[xx] 1 **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: 2 Approved /Jinhee J. Lee/ SPE A. U. 2841

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COMMISSIONER FOR PATENTS
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Paper No. 8

Thomas A. Beck
26 Rockledge Lane
New Milford, CT 06776

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MAR 1 7 2004

OFFICE OF PETITIONS

In re Application of
Christos D. Dimitrakopoulos, et. al.
Application No. 10/303,618
Filed: November 25, 2002
Attorney Docket No. YOR920010362US1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 10, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed March 6, 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) was obtained. Accordingly, the above-identified application became abandoned after midnight May 6, 2003.

In response to the Notice to File Missing Parts, petitioner submitted with the instant petition $1,330 for the petition to revive fee, a specification, a declaration and thirteen (13) sheets of drawings containing Figures 1a-7h.

The Notice to File Missing Parts also required a $130 surcharge for the late filing of the oath/declaration. Therefore, per authorization given in the instant petition, $130 has been charged to petitioner's deposit account.

Since the requirements for a grantable petition have been met, the petition is **GRANTED**.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

MACMILLAN SOBANSKI & TODD, LLC
ONE MARITIME PLAZA FOURTH FLOOR
720 WATER STREET
TOLEDO, OH 43604-1619

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APR 0 9 2003

OFFICE OF PETITIONS

In re Application of
Simmonds et al.
Application No. 10/303,624
Filed: November 25, 2002
Attorney Docket No. 16131 US

DECISION ON PETITION

This is a decision on the "Petition under 37 CFR 1.10(c) and Request for Corrected Filing Receipt," filed January 17, 2003, requesting that the above-identified application be accorded a filing date of November 25, 2002, rather than the presently accorded filing date of November 26, 2002.

Petitioner maintains that the above-identified patent application was USPS Express Mailed to the USPTO on November 25, 2002, and requests that the application be accorded that date as the filing date. In support thereof, applicants submit copies of the following documents:

- the Application Transmittal Letter and Return Postcard, to show that the number of the "Express Mail" mailing label, i.e., EV267281351US, was placed on each piece of correspondence prior to the original mailing; and
- a true copy of official notation by the USPS obtained from the official USPS website, indicating that the "Express Mail" package, having the label EV267281351US, was "ENROUTE, November 25, 2002, 7:38 pm," and was delivered to the Patent Office at 10:17 am on November 26, 2002.

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. <u>The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation</u>. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See §1.6(a).
>
> (Emphasis supplied).

Paragraph (c) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show

that 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.

The instant petition was filed promptly within the meaning of § 1.10(c)(1). A review of the application papers presently accorded a filing date of November 26, 2002, reveals that "Express Mail" mailing label No. EV267281351US was placed on the application transmittal prior to the original mailing. (This transmittal is identical to the one submitted on petition.)

Petitioner states that they have not received the customer copy of the "Express Mail" mailing label. Thus, the petition does not include a true copy of the "Express Mail" mailing label showing a "date-in" of November 25, 2002. Nonetheless, the USPS prepared "Shipment History" submitted states that the package was "ENROUTE, November 25, 2002, 7:38 pm," and thereby, corroborates petitioner's claim of deposit on November 25, 2002. Given this evidence, the requirement for a copy of the "Express Mail" mailing label is *sua sponte* waived.

Furthermore, the evidence indicates that the "Express Mail" package was sent via the USPS Express Mail "Post Office to Addressee" service as required by 37 CFR 1.10. **Petitioner must advise the Office if the "Express Mail" package was not sent via "Post Office to Addressee" service as compliance with § 1.10 would not then be found.**

In view thereof, 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 (OIPE) for **correction of the filing date to November 25, 2002** and **issuance of a corrected filing receipt**.

Telephone inquires related to this decision may be directed to the undersigned at (703) 305-0309.

Nancy Johnson

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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THOMAS KAYDEN HORSTEMEYER & RISLEY LLP
100 GALLERIA PARKWAY NW
STE 1750
ATLANTA GA 30339-5948

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JUL 0 9 2004

OFFICE OF PETITIONS

In re Application of	:	
Charles A. Fust	:	
Application No. 10/303,625	:	DECISION ON PETITION
Filed: November 25, 2002	:	
Attorney Docket No. 081307-1040	:	

This is a decision on the "PETITION TO ACCORD SERIAL NUMBER AND FILING DATE UNDER 37 CFR SECTION 2.21 and 2.23," filed June 7, 2004, which is being treated as a petition under 37 CFR 1.10(e) to accord the above-identified patent application a serial number and a filing date.[1]

The petition is **DISMISSED** for involving a moot issue.

Application papers in the above-identified application were filed on November 25, 2002. On June 7, 2004, before the mailing of the first Office action on June 29, 2004, applicant filed a petition to accord a serial number and filing date to the above identified application. Applicant states that no filing receipt was ever received, and an attempt to check the status of the application online was unsuccessful.

---

[1] 37 CFR 2.21 and 2.23 are the applicable regulations dealing with trademarks, not patents.

Checks by the undersigned in both PALM and PAIR reveal that the instant application has been accorded application no. 10/303,625, with a filing date of November 25, 2002.

No petition fee was required, and none has been charged.

This application is being forwarded to Group Art Unit 1614 to await for applicant's reply to the non-final Office action mailed June 29, 2004.

Telephone inquiries related to this decision should be directed to the undersigned at 703-305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Y. GRACE TSANG
SHELL OIL COMPANY
LEGAL – INTELLECTUAL PROPERTY
P.O. BOX 2463
HOUSTON, TX 77252-2463

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APR 29 2005

OFFICE OF PETITIONS

In re Patent No. 6,808,632	:	
Issued: October 26, 2004	:	
Application No. 10/303,632	:	ON PETITION
Filed: November 25, 2002	:	
Attorney Docket No. TH1006-03	:	

This is a decision on the petition under 37 CFR §§ 1.78(a)(3), filed October 29, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 for the benefit of prior-filed nonprovisional Application No. 09/549,981, filed April 14, 2000, as set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR §§ 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR §§ 1.78(a)(3), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed application.

While a reference to the prior-filed application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the transmittal letter filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR §§ 1.78(a)(3) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR §§ 1.78(a)(2)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) 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 instant case, the Office noted the claim for priority of the prior-filed applications in the transmittal letter filed with the application, as shown by their inclusion on the filing receipt.

Any questions concerning this decision on petition may be directed to Paralegal Liana Chase at (571) 272-3206.

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

[1] *Note* MPEP 201.11 (V), page 200-75 (Rev. 1. Feb. 2004 and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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)
6976493	2005-12-20	10/303,639	2002-11-25	11867/7

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	/Trevor K. Copeland/	Date (YYYY-MM-DD)	2010-02-09
Name	Trevor K. Copeland	Registration Number	50292

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. 6976493
Issue Date: December 20,2005
Application No. 10303639
Filed: November 25,2002
Attorney Docket No. 11867/7

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

This is a decision on the electronic petition, filed February 9,2010 ,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 February 9,2010 . 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

MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

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JUN 0 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Rollie R. Johnson et al	:	
Application No. 10/303,641	:	ON PETITION
Filed: November 25, 2002	:	
Attorney Docket No. 18133-141	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 19, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3744 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE MA 02142

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SEP 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Rollie R. Johnson et al	:	
Application No. 10/303,641	:	DECISION GRANTING PETITION
Filed: November 25, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. A2000-713919	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 11, 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 August 17, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3744 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE, MA 02142

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FEB 22 2010

In re Application of :
Rollie R. Johnson et al :
Application No. 10/303,641 : ON PETITION
Filed: November 25, 2002 :
Attorney Docket No. A2000-713919

This is a decision on the petition, filed February 22, 2010 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 5, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3744 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-18-08

TO SPE OF : ART UNIT 1743

SUBJECT : Request for Certificate of Correction on Patent No.: 7323143 (10/303642)

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.

Eva James

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

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

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

Comments:

1797

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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EDWARD D. MANZO
COOK ALEX McFARRON MANZO
CUMMINGS & MEHLER LTD.
200 WEST ADAMS STREET, SUITE 2850
CHICAGO, IL 60606

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APR 2 1 2004

OFFICE OF PETITIONS

In re Application of
Shunpei Yamazaki et al
Application No. 10/303,649
Filed: November 25, 2002
Attorney Docket No. 0553-0159.0

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, originally filed on February 27, 2004 and resubmitted on April 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 January 16, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2818 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

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

---

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

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OFFICE OF PETITIONS

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

In re Patent No. 7,021,940	:	
Issued: April 4, 2006	:	
Application No.: 10/303,666	:	ON PETITION
Filed: November 21, 2002	:	
Attorney Docket No: **SPRUS55.001AUS**	:	

This is a regarding the petition under 37 CFR 1.28(c) filed September 5, 2006.

The petition is **GRANTED.**

By the instant petition, petitioner informs the USPTO that the inventive entity is not eligible for small status. The loss of small entity status is acknowledged and noted in the application file.

Payment of the deficiencies in various fees previously remitted to the USPTO are of record as of September 5, 2006.

The application file will be directed to the Files Repository.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CLIFFORD CHANCE US LLP
31 WEST 52ND STREET
NEW YORK NY 10019-6131

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NOV 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Hamilton et al.	:	
Application Number: 10/303667	:	DECISION DISMISSING PETITION
Filing Date: 11/25/2002	:	UNDER 37 CFR 1.78(a)(3)
For: HOUSING FOR HAND HELD	:	
SCANNER	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on September 10, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior filed nonprovisional applications stated therein.

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 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition must be dismissed because the reference to the prior-filed applications was not included in the manner specified in 37 CFR 1.78(a)(2) and (a)(5)(*i.e.*, in an ADS or in an amendment to the first sentence following the title of the specification). Specifically, the present

petition does not include an amendment to the specification contained on a separate paper (*See* 37 CFR 1.121(h)), nor is the amendment in compliance with 37 CFR 1.121(b).

Furthermore, the petition must be dismissed because the chain of applications to which petitioners are seeking a claim for priority is not properly set forth.

Where an application claims a benefit under 35 U.S.C. 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. See Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v. Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). See also MPEP 201.11. In addition, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate application. MPEP 201.06(d).

Petitioners should review the claim for priority to ensure that a reference is made to the first application and to every intermediate application. Upon reviewing the records of the USPTO, it appears that the chain of application to which petitioners wish to claim the benefit of priority is as follows: Application No. 10/303,667 is a continuation of Application No. 09/538,812, which is a continuation of Application No. 09/359,019, which is a continuation of Application 08/916,605, which is a continuation of Application No. 08/691,263. Application No. 09/538,812 is also a continuation-in-part of Application Nos. 29/116,604, 29/116,597, 29/116,589, and 29/116,606. However, a review of the record of Application No. 09/538,812 reveals that petitioners did not make a reference to Application No. 08/916,605, but rather directly claimed the benefit of Application No. 08/691,263. The Office notes that there is no copendency between Application Nos. 09/538,812 and 08/691,263.

Before the petition under 37 CFR 1.78(a)(3) can be granted in the present application, petitioner must first file a Certificate of Correction in Application No. 09/538,812,[1] making a reference to Application Nos. 09/359,019, 08/916,605, and 08/691,263, and stating the relationship between these applications. Thereafter, petition must file a renewed petition under 37 CFR 1.78(a)(3) in Application No. 10/303,667, accompanied by either a Supplemental Application Data Sheet (signed in compliance with 37 CFR 1.33(b) and in compliance with 37 CFR 1.76) or a substitute amendment (complying with the provisions of 37 CFR 1.121) and a copy of the granted request for a Certificate of Correction from Application No. 09/538,812.

The address in the present petition is different than the correspondence address. A copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

The petition fee will be charged to counsel's deposit account, as authorized in the transmittal letter accompanying the subject petition.

---

[1] For applications filed prior to November 29, 2000, a Certificate of Correction can be used, without the need for a petition under 37 CFR 1.78, to correct the failure to make reference to a prior copending application. See MPEP 1481.03(II)(A).

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

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

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

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Cc:

FAY, KAPLUN & MAREIN LLP
150 BROADWAY, SUITE 702
NEW YORK NY 10038

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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FAY KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK NY 10038

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JUL 23 2008

In re Application of	:
Hamilton et al.	:
Application No. 10/303667	: DECISION ON PETITION
Filed: 11/25/2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 7157-241	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed on March 20, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the

benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to 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 2876 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.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/303,667	11/25/2002	2876	1216	7157-241	19	7

CONFIRMATION NO. 2949

CORRECTED FILING RECEIPT

30636
FAY KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK, NY 10038

OC000000031122758

Date Mailed: 07/23/2008

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)

Alistair Hamilton, Stony Brook, NY;
Sudhir Bhatia, Brooklyn, NY;
Philip Swift, Winchester, MA;
Chinh-Hung Jwo, Mount Sinai, NY;

Assignment For Published Patent Application

Symbol Technologies, Inc.

Power of Attorney: The patent practitioners associated with Customer Number 30636

Domestic Priority data as claimed by applicant

This application is a CON of 09/538,812 03/30/2000 PAT 6,543,695
which is a CIP of 08/691,263 08/02/1996 ABN
and is a CIP of 29/116,604 01/06/2000 PAT D,431,562
and is a CIP of 29/116,597 01/06/2000 PAT D,430,159
and is a CIP of 29/116,589 01/06/2000 PAT D,430,158
and is a CIP of 29/116,606 01/06/2000 PAT D,436,104
and is a CON of 08/916,605 08/22/1997 ABN
which is a CON of 08/691,263 08/02/1996 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 03/06/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/303,667**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

Housing for hand held scanner

Preliminary Class

235

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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DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE, SC 29602-1449

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APR 21 2005

OFFICE OF PETITIONS

In re Application of :
Larry L. Savage et al :
Application No. 10/303,673 : ON PETITION
Filed: November 25, 2002 :
Attorney Docket No. SEI-2 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 10, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the 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.

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 a continuing application No. 10/985,267.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy

copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

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

The application file is being forwarded to Files Repository.

Wan Laymon

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

cc: KILPATRICK STOCKTON
1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GA 30309

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

MICHAEL H. MINNS
HAHN LOESER & PARKS LLP
TWIN OAKS ESTATE
1225 WEST MARKET STREET
AKRON, OH 44313-7188

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JUN 1 5 2004

OFFICE OF PETITIONS

In re Application of
Forbes et al.
Application No. 10/303,681
Filed: November 25, 2002
Attorney Docket No. 115699-9-CON2

DECISION ON PETITION;
NOTICE OF OMITTED ITEM

This decision concerns the March 30, 2004 petition under 37 CFR 1.137(b).

The petition is **GRANTED.**

Petition under 37 CFR 1.137(b)

The application became abandoned on March 9, 2003 for failure to timely submit the application basic filing fee and the extra claims fees, a proper oath or declaration, and replacement drawings as required by the January 8, 2003 "Notice to File Missing Parts of Nonprovisional Application" ("1/8/03 Notice").

The instant petition encloses the $1,330 petition fee; the $770 application basic filing fee and the $230 extra claims fees;[1] an executed "Combined Declaration and Power of Attorney"; the $130 surcharge for late filing of the fee and the declaration; a set of replacement drawings which have been approved by the draftsperson; and a statement that the entire delay in filing the requested items was unintentional. The petition is thus granted.

Notice of Omitted Items in a Nonprovisional Application

The Office also notes that the 1/8/03 Notice points out an apparent omission, from the filed application, of a Figure 13 described on Page 16 of the specification. If Applicants dispute this part of the 1/8/03 Notice, a petition under 37 CFR 1.53(e) must be filed within **TWO MONTHS** of the mailing date of this notice.[2] In the alternative, if appropriate, a preliminary amendment to the specification correcting the references to drawings should be filed before examination of the application on its merits.

---

[1] $84 (part of a $1,128 check) was remitted for 1 independent claim over 3, which should have been $86 effective 10/1/03. The deficiency of $2 has been charged to Deposit Account No. 15-0450 as authorized.

[2] This 2-month period is not extendable under 37 CFR 1.136(a) or (b).

The file is being returned to the Office of Initial Patent Examination to await a response to the instant Notice of Omitted Items in a Nonprovisional Application. Upon completion of pre-examination, the application file will be forwarded to Technology Center 3600 for examination in due course.

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

RC Tang
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 07

APR 30 2003

Larry S. Nixon
NIXON & VANDERHYE P.C.
8th Floor
1100 North Glebe Road
Arlington, VA 22201-4714

In re Application of:	:	
YASUHARA, YASUTAKE	:	
Application No. 10/303,720	:	DECISION ON PETITION
Filed: November 26, 2002	:	TO MAKE SPECIAL
Attorney Docket No.:160-380	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed November 26, 2002, to make the above-identified application special.

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

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

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

Accordingly, the petition is GRANTED.

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

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

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

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

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

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

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.

Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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NIXON & VANDERHYE, PC
1100 N GLEBE ROAD
8TH FLOOR
ARLINGTON, VA 22201-4714

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FEB 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Yasutake Yasuhara	:	
Application No. 10/303,720	:	ON PETITION
Filed: November 26, 2002	:	
Attorney Docket No. 160-380	:	

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 September 13, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2859 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 : 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) : Yasutake Yasuhara
Application No. : 10/303,720
Filed : November 26, 2002

The above-identified application has been assigned Patent No. 6,859,035 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. 6,859,035 to YASUTAKE YASUHARA of JAPAN for MAGNETIC RESONANCE IMAGING APPARATUS appearing in the Official Gazette of February 22, 2005, should be deleted since no patent was granted."

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

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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Alexandria, VA 22313-1450
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ARMSTRONG KRATZ QUINTOS
HANSON & BROOKS, LLP
SUITE 1000
1724 K STREET, N.W.
WASHINGTON, DC 20006

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MAR 1 0 2005

OFFICE OF PETITIONS

In re Patent No. 6,828,708	:	
Issue Date: December 7, 2004	:	
Application No. 10/303,753	:	ON PETITION
Filed: November 26, 2002	:	
Attorney Docket No. 021475	:	

This is a decision on the petition filed February 18, 2005, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the assignees' residences 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 : 11-7-06

TO SPE OF : ART UNIT 2628

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/303791 Patent No.: 7034820

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

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

Please check Drawing Sheets

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

[signature]

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

[signature] SPE

2628 Art Unit

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HOFFMAN WASSON & GITLER, P.C
CRYSTAL CENTER 2, SUITE 522
2461 SOUTH CLARK STREET
ARLINGTON VA 22202-3843

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OCT 26 2009

OFFICE OF PETITIONS

In re Application of	:	
BLAUKOPE, Daniel et al.	:	
Application No. 10/303,805	:	DECISION ON PETITION
Filed: November 26, 2002	:	TO WITHDRAW
Attorney Docket No. **A-8320 .RNFMP/cat**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 23, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Hoffman Wasson & Gitler, P.C has been revoked by the assignee of the patent application on October 21, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **SUN MICROSYSTEMS**
C/O SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, WILLIS TOWER
CHICAGO IL 60606-1080
SUITE 1400
COSTA MESA CA 92626

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 6

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OFFICE OF PETITIONS

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

In re Application of
Buchanan & Rowan
Application No. 10/303,815
Filed: November 26, 2002
Attorney Docket No. 114334
For: PROTECTING AGAINST IMPULSE EXPENDITURE

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed July 14, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor, Earle George Rowan, has refused to join in the filing of the above-identified application after having had the opportunity to review the application papers. Specifically, the declaration of Attorney John C. Gibbs and accompanying exhibits and the declaration of Attorney Alyssa Grabb, establish that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the requests that he pick up the package. In addition, Attorney Alyssa Grabb states in her declaration that on July 11, 2003, Mr. Rowan orally refused to sign the declaration and immediately terminated the telephone conversation with Ms. Grabb. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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EARLE GEORGE ROWAN
38 ALFRED STREET, APT. 1303
MILSONS POINT
SYDNEY NSW 2061
AUSTRALIA

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JUL 2 8 2003

OFFICE OF PETITIONS

In re Application of
Buchanan & Rowan
Application No. 10/303,815
Filed: November 26, 2002
Attorney Docket No. 114334
For: PROTECTING AGAINST IMPULSE EXPENDITURE

LETTER

Dear Mr. Rowan:

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: OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

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BANNER & WITCOFF
1001 G STREET, N.W., SUITE 1100
WASHINGTON, DC 20001

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JUL 22 2005
OFFICE OF PETITIONS

In re Application of :
Hiroshi Watanabe et al :
Application No. 10/303,818 : ON PETITION
Filed: November 26, 2002 :
Attorney Docket No. 001701.00168

This is a decision on the petition, filed July 21, 2005 under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 15, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2822 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

10/303,833

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/02/06

TO SPE OF : ART UNIT **2853**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/303833 6837564

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

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

Thank You For Your Assistance

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

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

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

Comments:

STEPHEN MEIER
SUPERVISORY PATENT EXAMINER

2853

SPE **Art Unit**

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COMMISSIONER FOR PATENTS
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Paper No. 10

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

MAIL

JAN 23 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Blake BOOKSTAFF :
Application No. 10/303,903 :
Filed: November 26, 2002 :
For: METHOD AND SYSTEM FOR PROVIDING :
ADVERTISING TO TELEPHONE CALLERS :

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed August 20, 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 petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper 7

SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, NW
Washington DC 20037-3213

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JUL 29 2004

OFFICE OF PETITIONS

#7

In re Application of
Katai et al.
Application No. 10/303,907
Filed: November 26, 2002
Attorney Docket No. Q72942

Title of Invention: Polymer Resin Film And Its Production

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed June 25, 2004, to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice to File Corrected Application Papers which was mailed on January 15, 2003. The Notice to File Corrected Application Papers set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on March 16, 2003. A Notice of Abandonment was mailed on June 2, 2004.

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

The Office acknowledges receipt of the substitute drawings and the IDS submitted with the instant petition.

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 20, 2005

TO SPE OF : ART UNIT 2879

SUBJECT : Request for Certificate of Correction on Patent No.: 6,791,264 / 10/303926

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.

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

Comments:

_____ 2879
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Paper No. 040505

Dickstein Shapiro Morin & Oshinsky LLP
2101 L Street, NW
Washington, DC 20037

In re Application of:	:	
Hirota et al.	:	*SUA SPONTE*
Serial No.: 10/303,950	:	DECISION WITHDRAWING HOLDING OF
Filed: November 26, 2002	:	ABANDONMENT
Attorney Docket No.: A8319.0003/P003-A	:	

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

The application was held abandoned for failure to timely file a response to the Final rejection mailed on December 12, 2003. A Notice of Abandonment was mailed on March 24, 2005.

A review of the written record indicates that the response received on August 30, 2004 should have been entered as a "response to a non-final rejection" in view of withdrawal of final rejection mailed on December 12, 2003. Applicant has received a new non-final Office action dated April 30, 2004 and responded accordingly on August 30, 2004.

Consequently, the advisory action mailed on September 20, 2004 is improper and since the response was timely filed, the abandonment of the application was premature. Therefore, the application was not abandoned in fact.

For the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the examiner for consideration of the response.

Inquiries related to this decision should be directed to Robert Kim (571) 272-2293.

Janice A. Falcone

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical

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ROSENBERG KLEIN & LEE
3458 ELLICOTT CENTER DRIVE
SUITE 101
ELLICOTT CITY, MD 21043

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FEB 28 2006

OFFICE OF PETITIONS

In re Application of	:	
Said I. Kakky et al	:	
Application No. 10/303,970	:	ON PETITION
Filed: November 26, 2002	:	
Attorney Docket No. MR2493-36	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 22, 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 March 4, 2005, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The amendment submitted on June 6, 2005 did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed June 24, 2005. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 5, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of March 4, 2005 is accepted as having been unintentionally delay.

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

This matter is being referred to Technology Center AU 3762.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450

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ELLICOTT CITY, MD 21043

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JUN 1 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Said I. HAKKY, et al	:	
Application No. 10/303,970	:	ON PETITION
Filed: November 26, 2002	:	
Attorney Docket No. MR2493-36	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 29, 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 4, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is July 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 Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) the required statement of unintentional delay have been received.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 3762 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.

Thurman Page
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-145

MAR 2 5 2005

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OFFICE OF THE DIRECTOR
TC 3600

MCDERMOTT WILL & EMERY LLP
18191 Von Karman Avenue
Irvine, CA 92612-7107

In re application of
Mark Douglas Benz :
Application No. 10/303,975 :
Filed: November 26, 2002 :
For: TACTILE RECONNAISSANCE AND ORDNANC :
SYSTEM

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on March 18, 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 attorney making the request; Richard T. Ogawa, does not now have, and apparently never has had, power of attorney in this application. There is no record of power of attorney ever being given to the attorney making the request.

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

SNM/pav: 03/17/05

CC: Richard T. Ogawa
Townsend and Townsend and Crew LLP
379 Lytton Avenue
Palo Alto, CA 94301

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

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MAR 2 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Diefenbach et al.	:	DECISION ON PETITION TO
Application No. 10/303,980	:	WITHDRAW HOLDING OF
Filed: 25 November, 2002	:	ABANDONMENT
Atty Docket No. DE 010320	:	

This is a decision on the petition filed on 21 February, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

The application was held abandoned for failure to timely respond to the Notice to File Missing Parts of Nonprovisional Application mailed on 29 April, 2003. Notice of Abandonment was mailed on 1 February, 2006.

Petitioners assert that a reply to the Notice was timely filed. In support, petitioner has supplied a copy of a "Response to Notice to File Missing Parts of Application" which contains a Certificate of Mailing dated 7 March, 2003, as well as a declaration from counsel's docketing manager, Therese P. Conboy, stating that it is her belief that the reply was mailed on 7 March, 2003.

37 CFR 1.8(b) states:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the

> application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the 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 lacks item (3). Petitioner has not provided the name of the individual who signed the Certificate of Mailing or provided a statement by that person which attests on a personal knowledge basis to the previous timely mailing or transmission. Petitioners should provide a statement by the person who signed the Certificate of Mailing dated 7 March, 2003.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**[1]

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

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

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

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

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[1] 37 CFR 1.181(f).

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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BRIARCLIFF MANOR NY 10510

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In re Application of	:	
Diefenbach et al.	:	DECISION ON PETITION TO
Application No. 10/303,980	:	WITHDRAW HOLDING OF
Filed: 25 November, 2002	:	ABANDONMENT
Atty Docket No. DE 010320	:	

This is a decision on the renwed petition filed on 30 March, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the Notice to File Missing Parts of Nonprovisional Application mailed on 29 April, 2003. Notice of Abandonment was mailed on 1 February, 2006. The petition filed on 21 February, 2006, was dismissed on 30 March, 2006.

Petitioners again assert that a reply to the Notice was timely filed. In support, petitioner has supplied a copy of a "Response to Notice to File Missing Parts of Application" which contains a Certificate of Mailing dated 7 March, 2003, as well as a declaration from counsel's docketing manager, Therese P. Conboy, stating that it is her belief that the reply was mailed on 7 March, 2003. Petitioners have also provided, with the renewed petition filed on 30 March, 2006, a statement by Edna Chapa, the individual who signed the Certificate of Mailing dated 7 March, 2003, attesting to the previous timely mailing or transmission.

37 CFR 1.8(b) states:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with

> paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the 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.

As petitioners have provided convincing evidence that a response was transmitted to the USPTO on 7 March, 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 application is being referred to the Office of Initial Patent Examination 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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Paper 7

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L STREET NW
WASHINGTON DC 20037-1526

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Dennis C. Blaeuer :
Application No. 10/304,000 :
Filed: November 26, 2002 :
Attorney's Docket No. R1810.0000/P005-B :

This is a decision on the petition filed August 18, 2004 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on February 11, 2003, for failure to timely reply to the Notice to File Missing Parts, mailed January 10, 2003, which set a two (2) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed February 4, 2004.

The filing of the filing fee, oath or declaration and surcharge for their late filing as required by the Notice to File Missing Parts mailed January 10, 2003 is acknowledged.

All other requirements having been met , this application is being forwarded 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 (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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VP
PAPER NO. ___

AUG 3 2004

In re Application of
Mary A. Fryc
Serial Number: 10/304,022
Filed: November 26, 2002
For: WET DRIER SHEETS AND SHEET DISPENSER

PETITION UNDER
M.P.E.P.708.02 IV

This is in response to the petition filed February 23, 2004, requesting that the above-identified application be granted Special Status under Section 708.02 IV of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 IV of the MPEP is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C Knode

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

LITMAN LAW OFFICES, LTD.
P.O. BOX 15035 CRYSTAL CITY STATION
ARLINGTON VA 22215

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ENZO BIOCHEM, INC.
527 MADISON AVENUE (9TH FLOOR)
NEW YORK NY 10022

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OFFICE OF PETITIONS

In re Application of	:	
Elazar Rabbani et al	:	
Application No. 10/304,035	:	DECISION GRANTING PETITION
Filed: November 22, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. ENZ-58(D5)	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 25, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 20, 2008 ***cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

This application is being referred to Technology Center AU 1637 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new 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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GOLDSTEIN LAW OFFICES, P.C.
2071 CLOVE ROAD - 204
STATEN ISLAND NY 10304

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Kato, Barbara	:	
Application No. 10/304,036	:	
Filed: November 25, 2002	:	
Attorney Docket No. 13045	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 11, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of 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 Walsh
Petitions Examiner
Office of Petitions

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ROBERT M BAUER, ESQ.
MACDONALD, ILLIG, JONES & BRITTON, LLP
SUITE 700
100 STATE STREET
ERIE, PA 16507-1459

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In re Application of	:	
Sinikka Sarkkinen, et al.	:	
Application No. 10/304,056	:	DECISION ON PETITION
Filed: November 26, 2002	:	TO WITHDRAW
Attorney Docket No. 06173.0034US	:	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 25, 2008.

The request is **NOT APPROVED**.

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

The request cannot be approved because petitioner has not certified that (1) he has given reasonable notice to the client, prior to the expiration of the response period, that the practitioners(s) intends to withdraw from employment; (2) delivered to the client or duly authorized agent of representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond. Practitioners are not permitted to withdraw from representation as practitioners of record unless all the certifications are made. It is also noted that submitting false certification may violate a practitioner's duty under 37 CFR 10.23(b)(4) and (b)(5).

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

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

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

Enclosure: Form/PTO/SB/83

cc: FOLEY & LARDNER, LLP
11250 EL CAMINO REAL
SUITE 200
SAN DIEGO, CA 92130

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OFFICE OF PETITIONS

FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

In re Application of
Sinikka Sarkkinen, et al.
Application No. 10/304,056
Filed: November 26, 2002
Attorney Docket No. P3594US00

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 October 22, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Foley & Lardner, LLP has been revoked by the assignee of the patent application on November 9, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642. All other inquires concerning the examination or status of this application should be directed to the Technology Center.

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

cc: DITTHAVOONG, MORI & STEINER, PC
918 PRINCE STREET
ALEXANDRIA, VA 22314

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

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, N.W.
WASHINGTON DC 20001

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MAY 01 2003

OFFICE OF PETITIONS

In re Application of :
Don Michael and Besselink :
Application No. 10/304,067 : DECISION ACCORDING STATUS
Filed: 26 November, 2002 : UNDER 37 CFR 1.47(a)
Attorney Docket No. DON MICHAEL 4B :

This is in response to the petition filed under 37 CFR 1.47(a) on 8 April, 2003.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Peter Besselink, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petitioners have established that a copy of the application was sent by petitioners' registered patent counsel, Jay M. Finkelstein, to the non-signing inventor. The non-signing inventor, however, failed to return an executed declaration and stated in an E-mail he would not sign the declaration for the application as filed.

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

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

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

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

D Wood

Douglas I. Wood
Petitions Attorney
Office of Petitions

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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	:	
Jacques Sequin, et. al.	:	
Application No. 10/304,085	:	DECISION ON PETITIONS
Filed: November 22, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. DEVAX.2CP1CPC	:	AND 37 CFR 1.55(c)

This is a decision on the petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed August 31, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed nonprovisional and PCT applications, and under 35 U.S.C. § 119(a)-(d) for the benefit of a prior-filed foreign application, as set forth in the concurrently filed specification and application data sheet (ADS), respectively.

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

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the requirements being met, the petition to accept an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and 365(c) is **GRANTED.**

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

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) and 35 § U.S.C. 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

This application is being to referred Technology Center Art Unit 3738, for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120, 365(c) and 35 U.S.C. § 119(a)-(d) to the prior-filed applications.

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

Andrea Smith
Petitions Examiner
Office of Petitions

David Bucci
Petitions Examiner

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
10/304,085	11/22/2002	3738	680	DEVAX.2CP1CPC	42	4

CONFIRMATION NO. 5664

CORRECTED FILING RECEIPT

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

OC000000028250487

Date Mailed: 02/22/2008

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

Applicant(s)

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

Power of Attorney:
Gerard Von Hoffmann--33043

Domestic Priority data as claimed by applicant

This application is a CON of 10/292,385 11/11/2002
which is a CIP of 10/225,484 08/20/2002 PAT 7,238,197
which is a CIP of 09/580,597 05/30/2000 PAT 6,666,883
which is a CIP of 09/011,214 04/03/1998 PAT 6,068,655
which is a 371 of PCT/FR97/00999 06/05/1997

Foreign Applications
FRANCE 9607245 06/06/1996

If Required, Foreign Filing License Granted: 01/14/2003
The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/304,085**
Projected Publication Date: Not Applicable
Non-Publication Request: No
Early Publication Request: No
**** SMALL ENTITY ****

Title

Method of stenting a vessel with stent lumenal diameter increasing distally

Preliminary Class

623

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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Paper No. 7

KATHRYN A MARRA
General Motors Corporation
Mail Code 482-C23-B21
P.O. Box 300
Detroit, MI 48265-3000

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NOV 13 2003
OFFICE OF PETITIONS

In re Application of :
Lee et al. :
Application No. 10/304,086 :
Filed: November 25, 2002 :
Attorney Docket No. :
GP-302077 :

This decision is in response to the petition under 37 CFR 1.137(b), filed August 22, 2003 (Certificate of Mailing dated August 20, 2003), to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), mailed January 10, 2003. The Notice set a two (2) month period for reply from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a).

Applicant files a five (5) month extension-of-time request with the instant petition; however, as Applicant correctly notes, the maximum extendable period available to respond the Notice under 37 CFR 1.136 is five (5) months, or until August 10, 2003. After August 10, no extensions-of-time were available as the application became abandoned on August 11, 2003. Thereafter, a petition to revive the application is the appropriate course of action.

The mailing of this Decision precedes the mailing of a Notice of Abandonment.

Having found that all of the requirements for a grantable petition under 37 CFR 1.137(b) have been met, **this petition is hereby granted.**

A review of the petition and application file and the instant petition reveals that no authorization to refund

Applicant's deposit account has been provided. Accordingly, Applicant may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

This application is being forwarded to the Office of Initial Patent Examination for continued processing in due course.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

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

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DEC 0 6 2004

OFFICE OF PETITIONS

In re Application of :
Vincent McNally, et al. :
Application No. 10/304,093 : ON PETITION
Filed: August 11, 2003 :
Attorney Docket No. 2426-110 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 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 January 28, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 29, 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, the $950 extension of time submitted with the petition on August 2, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account number 02-2135.

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. 10/899,308.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being forwarded to Files Repository.

Retta Williams

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

Attachment: Corrected Filing Receipt

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HOWSON AND HOWSON
ONE SPRING HOUSE CORPORATION CENTER
BOX 457
321 NORRISTOWN ROAD
SPRING HOUSE, PA 19477

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OFFICE OF PETITIONS

In re Application of Lazar et al.	:	
Application No. 10/304,100	:	Decision on Petition
Filing Date: November 25, 2002	:	
Attorney Docket No. UPN-M2327AUSA	:	

This is a decision on the petition filed May 11, 2005, which is being treated as a petition under 37 CFR 1.181 to correct an Office error in altering the filing date for the application upon receiving an amendment.

The petition is **granted.**

The application was filed on November 25, 2002.

A Notice was mailed to application stating that page 63 of the specification appeared to be missing.

Petitioner submitted a copy of page 63. Petitioner did not file a petition requesting a filing date as of the date page 63 was submitted. Instead, a petition was filed seeking to add page 63 based on the fact that the substance of page 63 was part of application PCT/US01/18460 which had been incorporated by reference.

The petition was dismissed and the Office stated that the proper avenue to have the page entered was by filing a preliminary amendment. The filing date remained November 25, 2002.

Petitioner filed a preliminary amendment to add page 63 to the application on February 27, 2003. Petitioner did not file a petition requesting a filing date as of the date page 63 was submitted.

Upon receipt of the preliminary amendment, the Office of Initial Patent Examination incorrectly changed the filing date from November 25, 2002, to February 27, 2003.

The filing date should not have been changed in response to the amendment and the filing date for the application will be November 25, 2002.

The petition fee of $400 will be refunded to deposit account no. 08-3040.

The Office apologizes for any delay in the rendering of the instant decision.

The Office of Initial Patent Examination will be informed of the instant decision so that it may take the following steps:

(1) Change the filing date of the instant application to November 25, 2002,
(2) Mail a corrected filing receipt for the application, and
(3) Mail a corrected filing receipt for application no. 10/949,576, which claims priority to the instant application.

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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MAY 31 2005

Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis, MN 55402

In re Application of		: DECISION ON PETITION
Andrew P. Kremer		: TO WITHDRAW
Serial No.	: 10/304,149	: HOLDING OF
Filed	: November 25, 2002	: ABANDONMENT
For	: Apparatus and Method for Ventricular Rate Regularization with Biventricular Sensing	:

This is a decision on petitioner's request filed March 9, 2005, to review the holding of abandonment mailed January 13, 2005, for failure to timely file a response to the Office action mailed March 3, 2004. There is no fee required for this petition.

A review of the file indicates that a response along with a one-month extension of time was received July 8, 2004. The communication included a Certificate of Mailing under 37 CFR 1.8 dated July 6, 2004. The examiner, in the Notice of Abandonment mailed January 13, 2005 indicated, "Although the Patent and Trademark Office was closed on Sat., July 3rd, the United States Post Office was open. A valid Certificate of Mailing should have been sent with applicant's amendment on July 3rd". Petitioner correctly asserts that pursuant to 37 C.F.R. 1.7(a) when the day, or the last day fixed by statute for taking any action or paying any fee in the United States Patent and Trademark Office falls on Saturday, Sunday, or on a Federal holiday within the District of Columbia, the action may be taken, or the fee paid on the next succeeding business day which is not a Saturday, Sunday, or Federal holiday. Since July 3, 2004 was a Saturday, the next business day was Monday July 5, 2004. However, Monday the 5th was a Federal holiday, and therefore, the next business day was July 6, 2004. Accordingly, contrary to the examiner's position, the placement of the communication in question in the mail on the 6th of July was timely.

In view of the above, the Notice of Abandonment mailed January 13, 2005 is in error and is hereby vacated. The holding of abandonment is withdrawn. Upon the mailing of this decision, the application will be forwarded to the Examiner via the Legal Instruments Examiner for entry and consideration of the response received July 8, 2004.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700
Phone: (571) 272-3750
ak/05/20/05

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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AUG 2 2004
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TC 3600

Patent Documentation Center
Xerox Corporation
Xerox Square 20th floor
100 Clinton Ave. S.
Rochester, NY 14644

In re Application of Germanus J.P.M. Nas et al. Application No. 10/304,184 Filed: November 25, 2002 For: ROLLING CONVEYOR GUIDE RAIL	DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's petition to withdraw the holding of abandonment filed July 2, 2004.

The petition is **DISMISSED**.

A review of the file record reveals that an Office action was mailed to applicant on October 7, 2003. Since a response was not received before the expiration of the six month statutory period for reply, the application was held abandoned, and a Notice to that effect was mailed on June 15, 2004.

Applicant's petition asserts that the Office action mailed October 7, 2003 was not received.

There is a strong presumption that Office communication properly addressed and delivered to the United States Postal Service, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date of January 7, 2004. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

The petition attests 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 as being due on January 7, 2004 has been submitted.

As to requirement (3) the docket record submitted (exhibit B) appears to be a mail log and not a docket record. To satisfy requirement (3) above a docket record showing all actions due by the ***firm*** at and around the due date of January 7, 2004 needs to be supplied.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Steven N. Meyers
Special Program Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/vdb: 7/28/04

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Xerox Corporation
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100 Clinton Ave. S.
Rochester, NY 14644

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TC 3600

In re Application of Germanus J.P.M. Nas, et al. Application No. 10/304,184 Filed: November 25, 2002 For: ROLLING CONVEYOR GUIDE RAIL	DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the applicants' renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office (USPTO), on September 27, 2004.

The petition is **GRANTED**.

A review of the file record reveals that an Office action was mailed to applicants on October 7, 2003. Since a response was not received before the expiration of the six month statutory period for reply, the application was held abandoned, and a Notice to that effect was mailed on June 15, 2004.

Applicants' petition asserts that the Office action mailed October 7, 2003 was not received.

There is a strong presumption that Office communication properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date of January 7, 2004. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G.53 (November 16, 1993). Applicants' prior petition, filed July 2, 2004, failed to meet requirement (3) above.

Applicants' renewed petition provides a copy of the docket record showing all actions "due for attorneys in the XEROX CORPORATION Intellectual Property Law Department between January 1, 2004 and January 18, 2004". This evidence is acceptable proof of non-receipt as provided by 1156 O.G. 53.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the abandonment, return the application to pending status and to redate and remail the Office action, originally mailed October 7, 2003, based on the reasoning in the case of *Delgar v. Schuyler*, 172 USPQ 513.

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

KJD/rwg: 12/04/04

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TC 3600

Patent Documentation Center
Xerox Corporation
Xerox Square 20th Floor
100 Clinton Ave. S.
Rochester, NY 14644

In re Application of
Mark D. Mathewson
Application No. 10/304,186
Filed: November 25, 2002
For: SHEET FEEDING APPARATUS HAVING AN ADAPTIVE AIR FLUFFER

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the petition to withdrawal the holding of abandonment filed on September 17, 2004 in the United States Patent and Trademark Office.

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

☐ Postcard receipt being_____.

☒ USPTO return facsimile receipt dated March 8, 2004, which identifies the application by serial number and the type of Response that was filed on that date.

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

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

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

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

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

SNM/rwg: 2/03/05

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Susan M. Donahue
Rockwell Automation, Inc.
704-P
1201 South Second Street
Milwaukee, WI 53204-2496

COPY MAILED

JAN 21 2005

OFFICE OF PETITIONS

In re Application of	:	
Marvin J. Schwenke, et. al.	:	
Application No. 10/304,190	:	ON PETITION
Filed: November 26, 2002	:	
Attorney Docket No. 110003.98AB083B	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on October 20, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed July 1, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned after midnight October 1, 2004.

In response, petitioner submitted with the instant petition an authorization to charge, to the listed deposit account, $1,370 for the petition to revive fee, $1,370 for the issue fee, and $300 for the publication fee. As authorized, the above fees have been charged to petitioner's deposit account.

The petition is **GRANTED**.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application file is being referred to the Office of Publications for further processing into a patent.

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

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Keith M. Baxter
Quarles & Brady, LLP
411 E. Wisconsin Avenue - 20th Floor
Milwaukee, WI 53202-4497

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Paper No. 6

JOHN S. PRATT (LOCKHEED)
KILPATRICK STOCKTON LLP
1100 PEACHTREE STREET
SUITE 1100
ATLANTA, GA 30309

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JUL 3 1 2003

OFFICE OF PETITIONS

In re Application of
Soderberg et al.
Application No. 10/304,214
Filed: November 26, 2002
Attorney Docket No. 50777/279872

ON PETITION

This decision concerns the June 24, 2003 petition under 37 CFR 1.47(a).

The petition is **DISMISSED.**

Two inventors are named in this application: John Jesse Soderberg ("Soderberg") and Kelvin Ma ("Ma"). The application was filed with an unsigned declaration. In response to a March 10, 2003 Notice to File Missing Parts of Nonprovisional Application, the petition was filed, accompanied by a "Declaration for Patent Application" signed by only Soderberg ("6/24/03 Declaration"), and a request for a 2-month extension of time and the requisite extension-of-time fee.

The petition alleges that Ma cannot be reached after diligent effort. That being the case, Soderberg may file the application on behalf of himself as well as Ma, provided that the petition includes Ma's last known address; and a statement of facts, signed by a person with firsthand knowledge of the facts recited therein, establishing that a diligent effort had been made to locate Ma, and that notwithstanding such an effort, Ma could not be found.[1]

The petition encloses a statement of facts by Laura J. Wilkins ("Wilkins") ("Wilkins Statement"), assistant to counsel for Assignee. According to the petition and the Wilkins Statement, Wilkins mailed a copy of the entire application to Ma at his last known address on February 13 2003 and again on June 2, 2003; and sent Ma at the same address a reminder letter on March 31, 2003.

The conclusion that Ma cannot be reached after diligent effort is based on the assertion that Ma did not respond to the correspondence sent to Ma's last known address by Wilkins. However, the Office notes that:

(1) There is no evidence that any effort was made to verify that Ma still resides, and/or is able to receive mail, at that address;

---

[1] 37 CFR 1.47(a); MPEP section 409.03(d) INVENTOR CANNOT BE REACHED (Rev. 1, Feb. 2003).

(2) The petition does not indicate that a search for Ma, e.g., through the Internet, was conducted. Through www.Lexis.com (ALLFND Combined Person and Business Locator), for example, the Office was able to locate a "K. P. Ma" associated with an address different from that provided in this petition.[2]

In view of the above, the Office concludes that a reasonably diligent effort had not been made to locate Ma before it was concluded that he could not be reached or located. The petition is thus dismissed. The 6/24/03 Declaration is not accepted.

To prevent abandonment of this application,[3] one of the following must be submitted within **TWO MONTHS** of the mailing date of this decision:[4]

(1) an oath/declaration properly signed by both Soderberg and Ma;[5]

or

(2) a renewed §1.47(a) petition (no fee) that includes proper statement(s) of facts relied upon to establish that a diligent effort had been made, in vain, to locate Ma.[6]

The renewed §1.47(a) petition should be addressed as follows:

by mail/by hand:	Commissioner for Patents, USPTO Office of Petitions Crystal Plaza Four, Suite CP4-3C23 2201 South Clark Place Arlington, VA 22202
by fax:	(703) 308-6916 Attn: Office of Petitions

---

[2] Printout attached.

[3] See 37 CFR 1.53(f) (If an application which has been accorded a filing date . . . does not include an oath or declaration . . . pursuant to §1.63 . . . , applicant will be notified and given a period of time within which to . . . file an oath or declaration . . . to avoid abandonment).

[4] Unless proper extension(s) of time under 37 CFR 1.136(a) is (are) obtained.

[5] **A supplemental declaration listing the invention, the application number, both inventors, and is signed by Ma is sufficient.**

[6] The steps taken to locate the whereabouts of Ma should be included in the statement of facts, signed by the person with firsthand knowledge of the facts recited therein. MPEP section 409.03(d) INVENTOR CANNOT BE REACHED (Rev. 1, Feb. 2003).

Finally, the Office acknowledges receipt with the petition of the $130 petition fee and the $130 surcharge for failure to submit an acceptable oath/declaration upon filing of the application.

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

RC Tang
Petitions Attorney
Office of Petitions

Attachment: Printout of Lexis.com name search

Source: Public Records > People, Business & Asset Locators > **ALLFND Combined Person and Business Locator Files** ⓘ
Terms: **"kelvin ma"** (Edit Search)

Select for FOCUS™ or Delivery

1. MA, K P, 4246 HEARTHSIDE DR, GRAPEVINE, TX 76051-6532, PERSON LOCATOR - USPAGE

2. MA, KEVIN, 567-31-XXXX, 1014 FOXWOOD DRIVE, CLIFTON PARK, NY 12065-6944, 8/1963, P-TRAK

3. CUNNINGHAM, KELVIN MAURICE, 208-54-XXXX, 1944 WILDERNESS ROAD, LANCASTER, PA 17603-9318, 6/1966, P-TRAK

Source: Public Records > People, Business & Asset Locators > **ALLFND Combined Person and Business Locator Files** ⓘ
Terms: **"kelvin ma"** (Edit Search)
View: Cite
Date/Time: Wednesday, July 30, 2003 - 8:02 PM EDT

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Paper No. 11

JOHN S. PRATT (LOCKHEED)
KILPATRICK STOCKTON LLP
1100 PEACHTREE STREET
SUITE 1100
ATLANTA, GA 30309

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NOV 13 2003

OFFICE OF PETITIONS

In re Application of
Soderberg et al.
Application No. 10/304,214
Filed: November 26, 2002
Attorney Docket No. 50777/279872

ON PETITION

This decision concerns the September 2, 2003 "Response to Notice of Missing Parts." The submission, in conjunction with a second supplemental declaration filed by facsimile on November 11, 2003, is being treated as a renewed petition under 37 CFR 1.47(a).

The renewed petition is **DISMISSED as inapplicable.**

The previous petition under 37 CFR 1.47(a), filed on June 24, 2003 and accompanied by a declaration signed by 1 of the 2 inventors for the claimed invention, asserted that the non-signing inventor, Kelvin Ma, could not be reached after diligent effort. That petition was dismissed on July 31, 2003 for lacking sufficient showing that a reasonably diligent effort had been made, in vain, to locate or reach Kelvin Ma.

The instant renewed petition encloses a supplemental declaration signed by Kelvin Ma, rendering the petition subject to dismissal as inapplicable.[1]

No petition fee is owed.

The petition also encloses a $130 surcharge for late filing of an acceptable oath or declaration. Such a surcharge was already submitted with the June 24, 2003 petition. The duplicate payment of $130 has been credited to Deposit Account No.11-0855 as authorized in the petition.

In addition, a $1,450 check is enclosed with the instant petition, intended for obtaining a 4-month extension of time for responding to the March 10, 2003 "Notice to File Missing Parts of Nonprovisional Application." However, a response to that notice was filed on June 24, 2003 in the form of a §1.47(a) petition, along with a request for a 2-month extension of time and the $410 extension-of-time fee. While the June 24, 2003 §1.47(a) petition was dismissed, the declaration

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[1] The 9/2/03 declaration is signed by Kelvin Ma, but fails to identify his country of citizenship. 35 U.S.C. 115. Kelvin Ma's country of citizenship is included in the 11/11/03 second supplemental declaration.

executed by Kelvin Ma is filed with the instant petition within the 2-month period set forth in the July 31, 2003 dismissal, with the defect in the declaration cured on November 11, 2003. Therefore, only a 2-month extension of time (through November 30, 2003; $420) is required. As authorized, Deposit Account No.11-0855 has been credited for the $1,450 payment, and charged for the $420 fee.

The application is now complete.

The file is being forwarded to Technology Center 2800 for examination in due course.

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

RC Tang
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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3COM CORPORATION
350 CAMPUS DRIVE
MARLBOROUGH, MA 01752-3064

Mail Date: 04/21/2010

Applicant	: Linh My Le	: DECISION ON REQUEST FOR
Patent Number	: 7603486	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/304,218	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/26/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1784** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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DENNIS V. CARMEN
EASTMAN CHEMICAL COMPANY
P.O. BOX 511
KINGSPORT TN 37662-5075

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OFFICE OF PETITIONS

In re Application of	:	
Quillen et al.	:	
Application No. 10/304,227	:	DECISION ON PETITION
Filed: 26 November, 2002	:	
Atty Docket No. 71578	:	

This is a decision on the petition filed on 2 June, 2005, under 37 CFR 1.137(b), [1] to revive the above-identified application.

The petition is **GRANTED**.

---

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

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

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

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

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

The application became abandoned on 27 January, 2005, for failure to timely reply to the non-final Office action mailed on 26 October, 2004, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 31 May, 2005.

Petitioners have submitted an amendment as the required reply.

This application is being referred to Technology Center 1700 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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CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of	:	
James P. Quinn	:	
Application No. 10/304,230	:	DECISION GRANTING PETITION
Filed: November 26, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 02-746	:	

This is a decision on the petition, filed by facsimile transmission on February 17, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on 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 July 15, 2004 will be mailed under separate cover.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center Art Unit 3641 for further examination on the merits.

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

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300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO, IL 60606

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MAR 23 2010

OFFICE OF PETITIONS

In re Patent of Singer	:	DECISION ON REQUEST
Patent No. 7,577,602	:	FOR RECONSIDERATION OF
Issue Date: August 18, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/304,248	:	AND NOTICE OF INTENT TO
Filing Date: November 26, 2002	:	ISSUE CERTIFICATE OF
Attorney Docket No. 02-998	:	CORRECTION

This is a decision on the petition filed on October 5, 2009, which is being treated as a petition under 37 C.F.R. § 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 seven hundred seventy (1,770) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand seven hundred seventy (1,770) 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 period of delay under 35 U.S.C. § 154(b)(1)(B), the over three year period began on November 27, 2005, and ended on December 30, 2008, *the day before* the RCE was filed, and is 1,130 (not 1,131) days. *See* 35 U.S.C. § 154(b)(1)(B)(i). As such, the patent term adjustment is 1,769 days, not 1,770 days.

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

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

The application 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 patent is extended or adjusted by **one thousand seven hundred sixty-nine (1,769)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,577,602 B2
ISSUE DATE	:	August 18, 2009
INVENTOR(S)	:	Singer

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 1442 days.

Delete the phrase "by 1442 days" and insert - by 1769 days--

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300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO, IL 60606

Mail Date: 04/20/2010

Applicant	: Scott Singer	: DECISION ON REQUEST FOR
Patent Number	: 7577602	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/304,248	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/26/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2096** 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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Snell & Wilmer L.L.P. (AMEX)
ONE ARIZONA CENTER
400 E. VAN BUREN STREET
PHOENIX, AZ 85004-2202

Mail Date: 04/23/2010

Applicant	: Donna A. Antonucci	: DECISION ON REQUEST FOR
Patent Number	: 7613629	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/304,251	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/26/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1424** 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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Mail Stop ZHHA/B675/PO Box 12195
3039 Cornwallis Road
RTP NC 27709-2195

In re Application of	:	
Seiichi Kawano et al.	:	
Application No. 10/304,295	:	ON PETITION
Filed: November 26, 2002	:	
Attorney Docket No. JP920010335US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 25, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 23, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on March 24, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

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 2115 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: **William N. Hogg**
Driggs, Hogg & Fry Co., LPA
38500 Chardon Road
Willoughby Hills, OH 44094

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OFFICE OF PETITIONS

SEYFARTH SHAW LLP
55 EAST MONROE STREET
SUITE 4200
CHICAGO IL 60603-5803

In re Application of	:	
Lowry et al.	:	DECISION GRANTED
Application No. 10/304,296	:	
Filed: November 26, 2002	:	
Attorney Docket No.: 400300	:	

This is a decision on the petition filed February 5, 2003, requesting in effect, the Notice of Omitted Item(s) in a Nonprovisional Application contained in the "Notice to File Corrected Application Papers" ("Notice") be withdrawn, and the above-identified application be accorded a filing date of November 26, 2002 including figure 1b as described in the specification.

The application was filed on November 26, 2002. However, on January 17, 2003, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of November 26, 2002 but figure 1b as described in the specification appeared to have been omitted. The Notice also requested replacement drawings.

In response, the present petition was filed wherein Petitioner contends six sheets of drawings including figure 1b were filed on November 26, 2002. In support, the petition is accompanied by a copy of applicants' return postcard which lists " six sheets of informal drawings (figs 1-14)". The petition is further accompanied by a copy of figure 1b.

Applicant's postcard receipt is prima facie evidence that at least six pages of drawings including figure 1b were received on November 26, 2002, but figure 1b is not present in the file. Therefore, it is concluded that figure 1b was received on November 26, 2002, as shown in counsel's file, and later misplaced in the office.

The petition is Granted to the extent it applies to the omitted figure 1b. The $130.00 petition fee will be refunded.

Since figure 1b cannot be located in the Office, figure 1b supplied on February 5, 2003, will be used for processing and examination purposes.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of November 26, 2002, using the papers submitted on November 26, 2003 and copy of figure 1b supplied on February 5, 2005.

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

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

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GENERAL MOTORS CORPORATION
LEGAL STAFF, MAIL CODE 482-C23-B21
P.O. BOX 300
DETROIT MI 48265-3000

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OFFICE OF PETITIONS

In re Application of	:	
Ament et al.	:	
Application No. 10/304,311	:	DECISION ON PETITION
Filed: 26 November, 2002	:	
Attorney Docket No. GP-302262	:	

This is a decision on the petition filed on 24 November, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 3 June, 2006, for failure to timely reply to the non-final Office action mailed on 2 March, 2006, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were

---

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

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

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

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

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

obtained. Notice of Abandonment was mailed on 27 November, 2006.

Petitioners have filed an amendment in response to the non-final Office action on 24 November, 2006.

This application is being referred to Technology Center 1764 for further processing.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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Paper No. 3

Timothy Evans
MS 9031
Sandia National Laboratories
7011 East Avenue
Livermore CA 94550

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JUN 0 3 2003

OFFICE OF PETITIONS

In re Application of	:	
Schoeniger et al.	:	DECISION GRANTING
Application No. 10/304,346	:	PETITION
Filed: November 25, 2002	:	
Attorney Docket No. SD-8383	:	

This is a decision on the petition under 37 CFR 1.10(c), filed April 1, 2003, requesting that the above-identified application be accorded a filing date of November 25, 2002, rather than the presently accorded filing date of November 26, 2002.

Petitioner alleges that the application was deposited in Express Mail service on November 25, 2002. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EU437394085US. The "date-in" indicated on the Express Mail label is November 25, 2002. Additionally, the Express Mail label contains a United States Postal Service (USPS) stamp of November 25, 2002. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**. No petition fee is necessary. Therefore, the $130.00 petition fee will be credited to Deposit Account No. 50-0583.

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to November 25, 2002.

Telephone inquiries should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK NY 10103-3198

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APR 0 4 2003

OFFICE OF PETITIONS

In re Application of	:	
Romanov et al.	:	
Application No. 10/304,365	:	DECISION DISMISSING
Filed: 26 November, 2002	:	PETITION
Attorney Docket No. HUBR-1236-US	:	

This is a decision on the petition filed under 37 CFR 1.182 on 29 January, 2003, which is treated as a petition under 37 CFR 1.53 requesting that the "Notice to File Missing Parts of Nonprovisional Application" mailed 14 January, 2003, in the above-identified application be vacated to the extent that it states that Pages 14-16 of the specification appeared to have been omitted from the application.

The application was filed on 26 November, 2002. However, on 14 January, 2003, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application" stating that the application had been accorded a filing date of 26 November, 2002, and advising applicants that, *inter alia*, Pages 14, 15, and 16 of the specification (description and claims) appeared to have been omitted from the application.

In response, on 29 January, 2003, the present petition was filed, along with a petition fee of $130.00. Petitioner asserts that Pages 14-16 were filed with the other application papers deposited on 26 November, 2002, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioner's postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 26 November, 2002, and bears the above-identified application number. The postcard identifies the application by attorney docket number and invention title and acknowledges receipt of, *inter alia*, specification (17 pgs.). Petitioners

request that the application, including Pages 14, 15, and 16 of the specification, be accorded a filing date of 26 November, 2002.

A review of the record reveals that no Pages 14, 15, and 16 of the specification has been located among the application papers deposited on 26 November, 2002. However, the evidence is convincing that the application papers deposited on 26 November, 2002, included Pages 14, 15, and 16 of the specification, which were subsequently misplaced in the Office.

The petition is dismissed, however, because petitioner has not supplied a copy of Pages 14, 15, and 16 of the specification originally filed. The petition is therefore dismissed without prejudice to reconsideration pending submission of a copy of Pages 14, 15, and 16.

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 26 November, 2002, using only the application papers filed on that date.

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

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

OR (after 1 May, 2003)[1]

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

[1]Effective 1 May, 2003, the U.S. Patent and Trademark Office is changing its address for some mail in preparation for its move to new office space in Alexandria, Virginia beginning at the end of 2003. See 68 Fed. Reg. 14332 (March 25, 2003).

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.

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
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Paper No. 8

FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK NY 10103-3198

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APR 14 2003

OFFICE OF PETITIONS

In re Application of	:	
Romanov et al.	:	
Application No. 10/304,365	:	DECISION GRANTING
Filed: 26 November, 2002	:	PETITION
Attorney Docket No. HUBR-1236-US	:	

This is a decision on the request for reconsideration filed by facsimile on 10 April, 2003, which is treated as a petition under 37 CFR 1.53 requesting that the "Notice to File Missing Parts of Nonprovisional Application" mailed 14 January, 2003, in the above-identified application be vacated to the extent that it states that Pages 14-16 of the specification appeared to have been omitted from the application.

The application was filed on 26 November, 2002. However, on 14 January, 2003, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application" stating that the application had been accorded a filing date of 26 November, 2002, and advising applicants that, *inter alia*, Pages 14, 15, and 16 of the specification (description and claims) appeared to have been omitted from the application.

In response, on 29 January, 2003, a petition was filed, along with a petition fee of $130.00. Petitioner asserts that Pages 14-16 were filed with the other application papers deposited on 26 November, 2002, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioner's postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 26 November, 2002, and bears the above-identified application number. The postcard identifies the application by attorney docket number and invention title and acknowledges receipt of, *inter alia*, specification (17 pgs.). Petitioners request that

the application, including Pages 14, 15, and 16 of the specification, be accorded a filing date of 26 November, 2002. The petition was dismissed, however, because petitioner has not supplied a copy of Pages 14, 15, and 16 of the specification originally filed.

The present request for reconsideration is accompanied by a copy of Pages 14, 15, and 16 of the specification. Petitioners again request that the application, including Pages 14, 15, and 16 of the specification, be accorded a filing date of 26 November, 2002.

A review of the record reveals that no Pages 14, 15, and 16 of the specification has been located among the application papers deposited on 26 November, 2002. However, the evidence is convincing that the application papers deposited on 26 November, 2002, included Pages 14, 15, and 16 of the specification, which were subsequently misplaced in the Office.

In view of the above, the petition is granted. The petition fee submitted with the petition filed on 29 January, 2003, is unnecessary and will be credited to counsel's deposit account, No. 50-0624.

The application will be processed and examined using the copy of three (3) pages of specification supplied on 10 April, 2003.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 26 November, 2002, using the application papers filed on that date, and the copies of Pages 14, 15, and 16 of the specification supplied on 10 April, 2003.

Telephone inquires should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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HUSCH BLACKWELL SANDERS, LLP
WELSH & KATZ
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Application of

BRYNOLF, Russell et al.
Application No. 10/304,366
Filed: November 26, 2002
Attorney Docket No. **7104/82122**

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, 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 Jeffrey Salmon on behalf of all attorneys of record who are associated with customer No. 24628. All attorneys/agents associated with the Customer Number 24628 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **RUSSELL BRYNOLF**
15275 GEBHART
HOWELL MI 48843

cc: **FTS TECHNOLOGIES**
6255 TAYLOR DRIVE
FLINT MI 48507

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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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RUSSELL BRYNOLF
15275 GEBHART
HOWELL MI 48843

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DEC 0 5 2008

OFFICE OF PETITIONS

In re Patent No. 6,716,484 :
Issue Date: April 06, 2004 :
Application No. 10/304,366 :
Filed: November 26, 2002 :
Attorney Docket No. **7104/82122** :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed August 14, 2008 and re-submitted on August 18, 2008, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired at midnight on April 06, 2008 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 Tredelle Jackson at (571) 272-2783.

The patent file is being forwarded to Files Repository.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **FTS SYSTEMS**
11084 HITECH DRIVE
WHITMORE LAKE MI 48189

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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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RUSSELL BRYNOLF
15275 GEBHART
HOWELL MI 48843

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DEC 0 8 2008

In re Application of	:	
Brynolf et al.	:	
Application No. 10/304,366	:	DECISION ON PETITION
Filed: November 26, 2002	:	
Attorney Docket No.	:	

This is a decision on the petition, filed on May 7, 2004, which is being treated as a petition requesting that the requirement of 37 CFR 3.81(a) be waived or suspended pursuant to 37 CFR 1.183 in order to permit correct name of the assignee to be provided after the issuance of the patent. The Office regrets the delay in rendering a decision on this petition.

The petition is **DISMISSED**.

In particular, 37 CFR 1.183 states that only 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. Petitioner, has not, however, shown an extraordinary circumstance where justice requires suspension of the rules.

Furthermore, even if waiver of the rules were justified under 37 CFR 1.183, the showing of record does not support a finding in the Recordation of Assignment Document(s) evidencing FTS, LLC's (and not Patent Holding Company) ownership of the patent. The assignment documents submitted concurrently with the petition do not pertain to the instant application but to the application bearing the serial number 10/107,849.

In this instance, where the request has been filed after the payment of the issue fee, 37 CFR 3.81(b) currently requires: 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 37 CFR § 3.11 before issuance of the patent, and must include a request for a

certificate of correction under 37 CFR § 1.323 (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in 37 CFR § 1.17 (i).

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 Ramesh Krishnamurthy at (571) 272-4914.

David Buczi
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 2 0 2005

Director's Office
Office of Patent Publication

REED SMITH CROSBY HEAFEY LLP
1901 AVENUE OF THE STARS, SUITE 700
LOS ANGELES, CA 90067

In re Application of :
LAFEVERS, MARK :
Application No. 10/304,372 : **DECISION ON PETITION**
Filed: November 26, 2003 :
Attorney Docket No. 355742.00120 :

This is a decision on the Petition Pursuant To 37 C.F.R. 1.181 To Withdraw Holding Of Abandonment, received in the United States Patent and Trademark Office (USPTO) via facsimile transmission on April 7, 2005.

The petition is **DISMISSED**.

Petitioner states that upon receiving the Notice of Abandonment they contacted the Petition Branch and were instructed to submit a fax requesting Withdrawal of the Holding of Abandonment. The requested facsimile was sent on August 10, 2004. Further, that in response to a Status Request, Brenda Moore informed him that the case remained abandoned due to an $8 shortage in the Deposit Account. Petitioner has submitted a copy of their fax report acknowledging the successful transmission on August 10, 2004 of what appears to be a cover sheet indicating an attached Petition to Withdraw Holding Of Abandonment is being filed on the same date. Petitioner has provided a copy of the Petition bearing the Certificate of Mailing of April 7, 2005, however, **not** a copy of the petition filed August 10, 2004.

The application was held abandoned for failure to timely pay the issue fee within the three (3) month statutory period to reply, as required in the Notice of Allowance and Fee(s) Due, mailed July 7, 2004. The submitted fee of $1,257 was insufficient. A balance of $8 was due. Accordingly, the Notice of Abandonment was mailed on July 27, 2004.

The Office acknowledges receipt of Part B – Issue Fee Transmittal on July 7, 2004, which was captured electronically into the Image File Wrapper (IFW) system. Unfortunately, on July 9, 2004, when an attempt was made by the Office of Finance to charge the fees, there were insufficient funds in the Deposit Account. Therefore, the petitioner has not complied with 37 CFR 1.25(b), which states in part:

> ... An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to charged unless sufficient funds are present in the account to cover the fee.

In light of the non-compliance with 37 CFR 1.25(b), the holding of abandonment cannot at this time be withdrawn. Also, there is no evidence to support the timeliness of the petition allegedly file August 10, 2004.

Other remedies for bringing about the withdrawal of abandonment are as follows:

File a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b):

The Office acknowledges receipt of the Petition Pursuant To 37 C.F.R § 1.181 To Withdraw Holding of Abandonment (indicated twice) on April 12, 2005. Petitioner states that the instructions received regarding the petition under 1.181, allegedly filed on August 10, 2004, may have been incorrect and request that this petition be treated under the appropriate rule—37 CFR 1.181 or 1.137.

Since, the petition filed on August 7, 2005 under 37 CFR 1.181 is dismissed, a message will be forwarded to the Office of Petition via IFW requesting that the petition filed April 12, 2005 be treated at a Petition For Revival under 37 CFR 1.137.

Further correspondence with respect to the Petition under 37 CFR 1.137 should be directed to the Office of Petitions at 703-305-9282 or as follows:

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

Telephone inquires concerning this decision may be directed to the undersigned at 703-308-9250.

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publication

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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REED SMITH CROSBY HEAFEY
1901 AVENUE OF THE STARS
SUITE 700
LOS ANGELES, CA 90067

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OFFICE OF PETITIONS

In re Application of	:	
Mark LaFevers	:	
Application No. 10/304,372	:	ON PETITION
Filed: November 26, 2002	:	
Attorney Docket No. 355742.00120	:	

This is a decision on the petition under 37 CFR 1.181, filed April 12, 2005, which is being treated under 37 CFR 1.137(b), to revive the above-identified application.[1]

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed April 7, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 8, 2004.

Pursuant to petitioner's authorization, Deposit Account No. 50-2899 was charged a total of $1,750.00 -- $750.00 for the petition to revive an unintentionally abandoned application, $700.00 for the issue fee and $300.00 for the publication fee.

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

This matter is being referred to Publishing Division.

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

[1] The petition under 37 CFR 1.181 was dismissed on April 20, 2005.

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

MEDIA RIGHTS TECHNOLOGIES C/O
WAGNER BLECHER LLP
123 WESTRIDGE DRIVE
WATSONVILLE CA 95076

In re Application of	:	
Risan et al.	:	ON APPLICATION FOR
Application No. 10/304,390	:	PATENT TERM ADJUSTMENT
Filed: November 25, 2002	:	
Attorney Docket No. MOMI-005	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R. § 1.705(B) filed June 8, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is eight hundred seventy-nine (879) days, not five hundred ninety-one (591) 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 cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) 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).

---

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

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

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

WAGNER BLECHER LLP
123 Westridge Drive
Watsonville, CA 95076
(408) 377-0500

PATENT APPLICATION

ATTORNEY DOCKET NO. MOMI-005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Hank Risan, et al.

Confirmation No.: 4826

Application No.: 10/304,390

Examiner: Pearson, David J.

Filing Date: 11/25/2002

Group Art Unit: 2437

Title: Controlling Interaction of Deliverable Electronic Media

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

STATEMENT OF THE CORRECT PATENT TERM ADJUSTMENT: BASIS(ES) UNDER 1.702 FOR THE ADJUSTMENT (37 C.F.R. 1.705(b)(2)(i) and (ii))

1. This statement is being submitted in support of the "Request for Reconsideration of Patent Term Adjustment Indicated in Notice of Allowance" to which this statement is attached.

37 C.F.R. 1.705(b)(2)(i)

2. The patent term adjustment shown on the Notice of Allowance is: 591 days

It is respectfully suggested that the correct patent term adjustment under 1.702 is: 879 days

37 C.F.R. 1.705(b)(2)(ii)

NOTE: Under 1.705(b)(2)(ii) applicant must set forth: "The relevant dates as specified in 1.703(a) through(e) for which an adjustment is sought and the adjustment as specified in 1.703(f) to which the patent is entitled."

3. The basis(es) on which the applicant seeks adjustment are as follows:
The adjustment is sought for the following date: between 11/29/2005 and 9/11/2006
Adjustment to be made for this date: 288 days

Basis: First Action received 674 days after the 14-mo. date. 3-year rule to allowance violated by 288 days (11/29/2005 - 9/11/2006) that did not overlap the 14-mo. violation. App. delays of 5 & 27 days reduce this, however app. delay is accounted for in PTA of 591days. Per Wyeth v. Dudas (580 F. Supp. 2d 138; 88 U.S.P.Q.2D (BNA) 1538, Sept. 30, 2008), USPTO's view that any administrative delay under 35 U.S.C.S. § 154(b)(1)(A) overlapped any three-year maximum pendency delay under § 154(b)(1)(B) could not be squared with language of § 154(b)(1)(B), as "B delay" began when PTO had failed to issue patent within three years, not before. Thus, total PTA should = 591d + 288d = 879 days.

☐ Plus ____ additional page(s)

☐ I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313-1450
Date of Deposit:

OR

☒ I hereby certify that this paper is being transmitted to the Patent and Trademark Office facsimile number (571)273-8300 or via Electronic submission.
Date of facsimile/transmission: 06/08/2009
Typed Name: Brenda Dinapoli
Signature: /Brenda Dinapoli/

Respectfully submitted,
Hank Risan, et al.
By /John P. Wagner, Jr./
JOHN P. WAGNER, JR.
Attorney/Agent for Applicant(s)
Reg No. : 35,398
Date : 06/08/2009
Telephone : 408-377-0500

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Date Mailed: October 29, 2009
Patent No. :7,578,002 B2
Ser. No. :10/304390
Issued : August 18, 2009
Inventor(s) : Hank Risan, et al.
Title :CONTROLLING INTERACTION OF DELIVERABLE ELECTRONIC MEDIA

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

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

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

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

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
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.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(571) 272-0423

Wagner Blecher LLP
Westridge Business Pk.
123 Westridge Drive
Wastsononville, CA 950763

MD/mt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MEDIA RIGHTS TECHNOLOGIES C/O WAGNER BLECHER LLP
123 WESTRIDGE DRIVE
WATSONVILLE, CA 95076

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MAR 11 2010

In re Patent No. 7,578,002	:	
Issue Date: August 18, 2009	:	
Application No. 10/304,390	:	ON PETITION
Filed: November 25, 2002	:	
Attorney Docket No. MOMI-005	:	

This is a decision on the petition filed December 29, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

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

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123 WESTRIDGE DRIVE
WATSONVILLE CA 95076

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MAR 22 2010

OFFICE OF PETITIONS

In re Patent No. 7,578,002	:
Risan, et al.	: DECISION ON REQUEST FOR
Issue Date: August 18, 2009	: RECONSIDERATION OF
Application No. 10/304,390	: PATENT TERM ADJUSTMENT
Filed: November 25, 2002	: AND NOTICE OF INTENT
Attorney Docket No. MOMI-005	: TO ISSUE CERTIFICATE OF
Title: CONTROLLING INTERACTION	: CORRECTION
OF DELIVERABLE ELECTRONIC MEDIA	:

This is a decision on the petition filed on October 19, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred seventy-nine (879) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED TO THE EXTENT INDICATED HEREIN.**

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 675 days (674 days + 1 days).

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 383 days (November 26, 2005 to December 13, 2006 the day before the filing of the request for continued examination (RCE)).

There are four (4) days of overlap between 37 CFR 1.702(a) and 37 CFR 1.702(b) (November 26, 2005 to November 29, 2005).

Patentees' calculation does not reflect the reduction of 94 days pursuant to 37 CFR 1.703(b)(4) in connection with the Notice of Appeal filed September 11, 2006. The reduction commenced September 11, 2006, the date that the Notice of Appeal was filed, and ended December 13, 2006, the day before the request

for continued examination (RCE) was filed. See, 37 CFR 1.703(b)(4).

In view thereof, the patent is entitled to an overall adjustment of 876 days (675 days under 37 CFR 1.702(a) + 383 days under 37 CFR 1.702(b) - 4 overlapping days - 94 days pursuant to 37 CFR 1.703(b)(4) - 84 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, 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 eight hundred seventy-six (876) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,578,002 B2

DATED : **August 18, 2009** **DRAFT**

INVENTOR(S) : Risan 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 591 days

Delete the phrase "by 591 days" and insert – by 876 days--

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JJGJR.: 12-04

Paper No: __

JAMES J. BINDSEIL
DOUGHERTY, CLEMENTS & HOFER
SUITE 400
6230 FAIRVIEW ROAD
CHARLOTTE NC 28210

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DEC 09 2004

OFFICE OF PETITIONS

In re Application of
Harris :
Application No. 10/304,406 :
Filing Date: 26 November, 2002
Attorney Docket No. 3452 :

This is a decision on the petition filed on 22 September, 2004, alleging, *inter alia*, unintentional delay under 37 C.F.R. §1.137(b).

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 19 March, 2004, with response due absent extension of time on or before Monday 21 June, 2004;

- the application went abandoned after midnight 19 June, 2004;

- it does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed;
- Petitioner filed with the instant petition (and fee) a reply (in the form of an amendment) and made the statement of unintentional delay.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and

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[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

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

Petitioner has satisfied the petition, fee, reply and statement/showing requirements of the regulation.

CONCLUSION

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

The instant application is released to the Technology Center 2800 for the Examiner's Answer.

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

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

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/24/09

Paper No.: ——

TO SPE OF : ART UNIT 2436

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/304407 Patent No.: 7426272B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

/Nasser Moazzami/ — **SPE**

2436 — **Art Unit**

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

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OFFICE OF PETITIONS

In re Application of :
Thayer :
Application No. 10/304,414 : ON PETITION
Filed: November 26, 2002 :
Attorney Docket No. 100110296-1 :
For: SYSTEM AND METHOD FOR AUTOMATER PROGRAM UPDATING IN A REMOTE APPLIANCE

This is a decision on the petition under 37 CFR 1.181, filed May 8, 2007, requesting that the Office withdraw the holding of abandonment of the above-identified application.

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

This application was held abandoned for failure to respond in a timely manner to the non-final Office action, mailed July 3, 2006, which set forth an extendable three (3) month period for reply. The Office contended that this application became abandoned on October 4, 2006 for failure to reply to the July 3, 2006 non-final Office action. A Notice of Abandonment was mailed on January 12, 2007.

Petitioner requests withdrawal of the holding of abandonment based on the assertion that a request for a three month extension of time and an amendment were timely received in the Office on December 27, 2006. The undersigned finds this argument completely convincing, as these documents are present in the application file. While the three month extension of time was not charged, the Office possessed authorization to charge the fee to deposit account no. 08-2025 on December 27, 2006. Therefore, the three month extension of time and amendment were timely filed.

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the January 12, 2007 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter. The $1,020.00 three month extension of time fee which should

have been charged on mailroom date December 27, 2006 will be charged to petitioner's deposit account.

Accordingly, the application file will be forwarded to Technology Center A.U. 2192 for consideration of the amendment and accompanying declarations under 37 CFR 1.131 filed on December 27, 2006.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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McGLEW AND TUTTLE P.C.
SCARBOROUGH STATION
SCARBOROUGH, NY 10510-0827

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JUN 2 3 2004

OFFICE OF PETITIONS

In re Application of	:	
Klann Horst	:	
Application No. 10/304,432	:	NOTICE
Filed: November 26, 2002	:	
Attorney Docket No. 70722	:	

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

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

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

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

This matter is being referred to Technology Center AU 3723.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

Meyertons, Hood, Kivlin, Kowert, Goetzel/Symantec
P.O. Box 398
Austin, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Steve Umbehocker	: DECISION ON REQUEST FOR
Patent Number	: 7577729	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/304,438	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/26/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1181** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 4

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FEB 11 2003

OFFICE OF PETITIONS

CRAWFORD PLLC
Suite 390
1270 Northland Drive
St. Paul MN 55120

In re Application of
Paller
Application No. 10/304,452
Filed: November 25, 2002
Attorney Docket No. NOKM.026PA

DECISION GRANTING
PETITION

This is a decision on the petition filed December 11, 2002 under 37 CFR 1.10(d), requesting that the above-identified application be accorded a filing date of November 25, 2002, rather than the presently accorded filing date of November 24, 2002.

Petitioner requests the later filing date on the basis that the application was deposited in Express Mail service on November 25, 2002, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a printout of the United States Postal Service Track/Confirm - Intranet Item Inquiry - Domestic for the package associated with EV207517735US that shows the package was deposited with the USPS on November 25, 2002. The same Express Mail label number is found on the original application papers.

Paragraph (d) of 37 CFR 1.10 states that:

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

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day." In addition, the showing "must be corroborated by evidence from the USPS

or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS."

The petition filed December 11, 2002, is accompanied by the corroborating evidence required by the rule. Accordingly, the petition is granted.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to November 25, 2002 and the mailing of a corrected filing receipt.

Thereafter, the application will be forwarded to Technology Center Art Unit 2661 for examination in due course.

Any inquiries related to this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN TX 78758

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AUG 1 8 2008

OFFICE OF PETITIONS

In re Application of :
DAGUM, Leonardo et al. :
Application No. 10/304,467 : DECISION ON PETITION
Filed: November 26, 2002 : TO WITHDRAW
Attorney Docket No. **RAP0011US** : 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 08, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The 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, **(assignee of this patent application knowingly and freely assents to termination of this representation)**, does not meet any the conditions set forth in 37 CFR 10.40, because the assignee has not properly intervened in accordance with CFR 3.73(b).

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 Michelle R. Eason at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **KYMERIE SCHMIDT**
MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WASHINGTON 98052

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CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN, TX 78758

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In re Application of	:	
DAGUM, Leonardo et al.	:	
Application No. 10/304,467	:	DECISION ON PETITION
Filed: November 26, 2002	:	TO WITHDRAW
Attorney Docket No. **RAP0011US**	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 21, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Campbell Stephenson LLP has been revoked by the assignee of the patent application on August 21, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **PERKINS COIE LLP**
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

UNITED STATES PATENT AND TRADEMARK OFFICE

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BRADLEY W. CRAWFORD
MCDONNELL BOEHNEN HULBERT & BERGHOFF
300 S. WACKER DRIVE, 32ND FLOOR
CHICAGO, IL 60606

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MAR 21 2006

OFFICE OF PETITIONS

In re Application of	:	
John Francis DeBernardis et al	:	
Application No. 10/304,468	:	ON PETITION
Filed: November 25, 2002	:	
Attorney Docket No. 94-713-K	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed February 11, 2005, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on August 12, 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) filed August 11, 2005; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of February 11, 2005 is accepted as having been unintentionally delay.

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

This matter is being referred to Technology Center AU 1626.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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#5

Paper No. 4

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
PO BOX 272400
FORT COLLINS CO 80527-2400

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DEC 1 0 2003

OFFICE OF PETITIONS

In re Application of
Jason Quintana
Application No. 10/304,492
Filed: November 25, 2002
Attorney Docket No. 100200995-1

ON PETITION

This is a decision on the "Request for Correction of Filing Receipt", which is being treated as a petition under 37 CFR 1.10 to accord the above-identified application a filing date of November 25, 2002.

The petition is **GRANTED**.

Petitioner argues that the above-identified application was filed on November 25, 2002, not November 26, 2002. In support thereof, petitioner has included a copy of the Express Mail mailing label, indicating that Express Mail number ET 959855891 US was accepted by the USPS on November 25, 2002.

37 CFR 1.10(c) states that any person filing correspondence under 37 CFR 1.10, who can show that there is a discrepancy between the filing date accorded by the Office and the date of deposit as shown by the "date-in" on the Express Mail mailing label, may petition the Office to accord the correspondence a filing date as of the "date-in" on the Express Mail mailing label, provided:

> (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 fees(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(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.

In view of the above, the application is entitled to a filing date of November 25, 2002.

Given the basis for granting this petition, no petition fee was required, and none has been charged.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of **November 25, 2002, not November 26, 2002.**

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

THOMAS HOXIE
NOVARTIS, PATENT AND TRADEMARK DEPARTMENT
ONE HEALTH PLAZA 430/2
EAST HANOVER, NJ 07936-1080

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APR 0 2 2003

OFFICE OF PETITIONS

In re Application of	:	
Rozenberg et al.	:	
Application No. 10/304,494	:	DECISION GRANTING
Filed: November 25, 2002	:	PETITION
Attorney Docket No. 4-30663B	:	

This is a decision on the petition filed March 17, 2003, to accord the above-identified application a filing date of November 25, 2002.

The petition is **granted**.

On November 25, 2002, the application was deposited.

On January 16, 2003, the Office of Initial Patent Examination mailed a Notice stating that drawings were missing and that a filing date would be accorded upon receipt of drawings.

In response, the present petition alleges that the Utility Patent Application Transmittal sheet incorporated by reference the entire disclosure of the parent application including the drawings.

The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted.

Based on the incorporation by reference, it appears that the drawings were present in the Office on November 25, 2002, albeit in the file of another application, i.e., application No. 09/756,250. Therefore, on petition, the application may be accorded the requested filing date of November 25, 2002.

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

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 25, 2002, using the application papers filed on November 25, 2002 and the copy of the drawings filed on March 17, 2003.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FOLEY & LARDNER LLP
111 HUNTINGTON AVENUE
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BOSTON MA 02199-7610

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DEC 18 2009

OFFICE OF PETITIONS

In re Application of	: ON REQUEST FOR
Sokwoo Rhee	: RECONSIDERATION OF
Patent Number: 7,522,563	: PATENT TERM ADJUSTMENT
Issue Date: 04/21/2009	:
Application No.: 10/304528	:
Filing or 371(c) Date: 11/26/2002	:
Atty. Dkt. No.: MIL-002 (094272-0102)	:

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705, filed May 18, 2009. Patentee requests that the patent term adjustment be increased from 980 days to 1404 days. This matter is being properly treated under 37 CFR 1.705(d).

Patentee requests that a decision on this request for reconsideration of patent term adjustment be deferred or delayed until after a final decision has been rendered in *Wyeth v. Dudas*. There is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance. Accordingly, the request to hold in abeyance a decision on the merits of the instant application for patent term adjustment is **DISMISSED**.

The Request for Reconsideration of Patent Term Adjustment ("PTA") under 37 CFR 1.705(d), is hereby **DISMISSED**.

On April 21, 2009, the above-identified application matured into U.S. Patent No. 7,522,563, with a patent term adjustment of 980 days. This application for patent term adjustment was timely filed within two months of the issue date of the patent. *See,* 37 CFR 1.705(d). Patentee has recalculated the Patent Term Adjustment ("PTA") under the courts interpretation of the PTA statute as set forth in *Wyeth v. Dudas*, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008) and have included an attachment detailing patentee's calculation of adjustment. Patentee appears to assert that the patent is entitled to an overall adjustment of 1404 days based on 1149 days of adjustment under 35 USC 154(b)(1)(A) *plus* 803 days of adjustment under 35 USC 154(b)(1)(B) *less* 423 overlapping days *less* 125 days of applicant delay.

Patentee does not dispute the adjustment of 1093 days under 37 CFR 1.702(a)(1) or the adjustment of 56 days under 37 CFR 1.702(a)(4).

Patentee acknowledges Applicant delays of 125 days. Thus, it is presumed that patentee disputes the applicant delay of 44 days under 37 CFR 1.704(c)(10) in connection with the information disclosure statement (IDS) filed September 2, 2008. As the IDS filed September 2, 2008 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," as required per 37 CFR 1.704(d), the submission of the IDS on September 2, 2008 is deemed a failure to engage in reasonable efforts to conclude prosecution or processing within the meaning of 37 CFR 1.704(c)(10).

As to patentee's request for additional adjustment in view of *Wyeth* and the Office's failure to issue the patent within three years of the application filing date, patentee is advised that under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office asserts that as of the filing of the RCE on February 7, 2008, the application was pending three years and 802 days after its filing date (from November 27, 2005 to February 6, 2008). The Office agrees that certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 1093 days is correct. At issue is whether patentees should accrue 802 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 1093 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 802 days of delay in issuing the patent overlaps with the 1093 of examination delay under 37 CFR 1.702(a). Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> 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)(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 26, 2002, and ending February 6, 2008, the day before the date that the RCE was filed on February 7, 2008. Prior to the filing of the RCE, 1093 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 802 days of Office delay in issuing the patent overlap with the 1093 days of Office examination delay. During that time, the issuance of the patent was delayed by 1093 days, not 802 days and 1093 days. The Office took 14 months and 1093 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 1093 days of Office delay and the time allowed within the time frames for processing and examination, at the time of filing of the RCE, the application issued three years and 802 days after its filing date. However, the Office did not delay 802 days and also delay an additional 1093 days.

In view thereof, at the time of issuance, having considered the 802 days of Office delay under the three-year pendency provision in conjunction with the 1093 days of adjustment under 37 CFR 1.702(a)(1) that accrued prior to the filing of the RCE and the 56 days of adjustment under 37 CFR 1.702(a)(4), subject to 169 days of reduction for applicant delay, the patent issued with an overall adjustment of 980 days.

In view thereof, no adjustment to the patent term will be made.

Regarding Patentee's request for a refund, Patentee is advised that the fee is a prerequisite prior to treatment on the merits of any application for patent term adjustment and is not subject to refund.

---

[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).

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 Attorney Derek Woods, at (571) 272-3232.

/ALESIA M. BROWN/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY & LARDNER LLP
111 HUNTINGTON AVENUE
26TH FLOOR
BOSTON, MA 02199-7610

Mail Date: 04/21/2010

Applicant	: Sokwoo Rhee	: DECISION ON REQUEST FOR
Patent Number	: 7522563	: RECALCULATION of PATENT
Issue Date	: 04/21/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/304,528	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/26/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1283** 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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Mail Date: 05/18/2010

Applicant : Sokwoo Rhee
Patent Number : 7522563
Issue Date : 04/21/2009
Application No : 10/304,528
Filed : 11/26/2002

: 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 **1359** 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).

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)
6873884	2005-03-29	10304533	2002-11-26	131044-1

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	/JEAN K. TESTA/	Date (YYYY-MM-DD)	2010-05-26
Name	JEAN K. TESTA	Registration Number	39396

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. 6873884
Issue Date: March 29,2005
Application No. 10304533
Filed: November 26,2002
Attorney Docket No. 066243-0155 (131044)

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

This is a decision on the electronic petition, filed May 26,2010 ,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 May 26,2010 .
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
DIW Sep-06

ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE WI 53202

COPY MAILED

SEP 14 2006

OFFICE OF PETITIONS

In re Application of	:	
Brackett et al.	:	
Application No. 10/304,538	:	DECISION ON PETITION
Filed: 26 November, 2002	:	
Atty Docket No. 066243-0156	:	
(131045)	:	

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

The petition is **GRANTED**.

The application became abandoned on 15 September, 2005, for failure to timely reply to the final Office action mailed on 14 June, 2005, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 23 February, 2006.

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional 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 have filed a Request for Continued Examination (RCE), and an amendment as the submission required under 37 CFR 1.114, as the required reply.

This application is being referred to Technology Center Art Unit 2612 for further processing.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 3 1 2004

VP
PAPER NO. ___

In re Application of
Xioguang Meng et al.
Serial Number: 10/304,550
Filed: November 26, 2002
For: METHOD AND APPARATUS FOR REMOVING INORGANIC CONTAMINANTS

PETITION UNDER
M.P.E.P.708.02 V

This is in response to the petition filed June 30, 2003, requesting that the above-identified application be granted Special Status under Section 708.02 V of the MPEP and 37 CFR 1.102(c) (**no fee required**).

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

Accordingly the petition is **GRANTED.**

Marian C. Knode

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

SELITTO, BEHR & KIM
203 MAIN STREET
METUCHEN NJ 08840-2727

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DINSMORE & SHOHL LLP
ONE DAYTON CENTRE, ONE SOUTH MAIN STREET
SUITE 1300
DAYTON, OH 45402-2023

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JUL 11 2007

OFFICE OF PETITIONS

In re Application of :
Petch, et al. :
Application No. 10/304,563 : ON PETITION
Filed: November 26, 2002 :
Attorney Docket No. GMC 0022 PA/GP-302806 :

This is in response to the "Petition under 37 CFR 1.183", filed October 27, 2006. The petition is being treated under 37 CFR 1.182.

The petition is **dismissed**.

Examiner Wayne Langel has determined that the terminal disclaimer filed October 4, 2006, can be withdrawn. The petition must be dismissed, however because the requisite fee of $400.00 did not accompany the petition and no authorization to charge a deposit account for the fee was found. Petitioner is advised that a petition under 37 CFR 1.183 is only appropriate when petitioner is requesting waiver or suspension of the rules and even a petition under 37 CFR 1.183 has a fee. This petition is most appropriately filed pursuant to 37 CFR 1.182 which covers questions not specifically provided for in the regulations. The fee for the petition under 37 CFR 1.182 is $400.00. The renewed petition under 37 CFR 1.182 must be accompanied by the petition fee.

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

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

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AUG 3 1 2007

OFFICE OF PETITIONS

DINSMORE & SHOHL LLP
ONE DAYTON CENTRE, ONE SOUTH MAIN STREET
SUITE 1300
DAYTON, OH 45402-2023

In re Application of :
Petch, et al. :
Application No. 10/304,563 : ON PETITION
Filed: November 26, 2002 :
Attorney Docket No.GMC 0022 PA/GP-302806 :

This is in response to the "Renewed Petition under 37 CFR 1.182", filed August 28, 2007.

The petition is **granted**.

Examiner Wayne Langel has determined that the terminal disclaimer filed October 4, 2006, can be withdrawn. The terminal disclaimer is withdrawn, accordingly.

The application is being directed to Technology Center 1700, GAU 1754 for further processing including entry in the record of the withdrawal of the terminal disclaimer filed October 4, 2006.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/27/07

Paper No.: —

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/304615 Patent No.: 6858644B2

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

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

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

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

SPE

1625
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

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NOV 2 6 2004

OFFICE OF PETITIONS

In re Application of
Eiki Niida, et al.
Application No. 10/304,623
Filed: November 26, 2002
Attorney Docket No. 5000-5086

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed by September 9, 2004, to revive the above-identified application.

A review of the record discloses that a Notice to File Missing Parts was mailed on January 13, 2003, requiring a substitute specification in compliance with 37 CFR 1.52, 1.121(b)(3) and 1.125, an oath or declaration under 37 CFR 1.63 and the surcharge as set forth in 37 CFR 1.16(e). On February 11, 2003, applicant filed, inter alia, an executed declaration and the requisite surcharge. The response filed February 11, 2003, did not include the substitute specification required in the notice mailed January 13, 2003. Accordingly, on June 17, 2004 a Notice of Abandonment was mailed. In response, on September 9, 2004, the present petition was filed.

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

The petition is **GRANTED**.

In view of the above, the application is being returned to the Office of Initial Patent Examination (OIPE) for further processing.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070323

DATE : March 23, 2007

TO SPE OF : ART UNIT 2885

SUBJECT : Request for Certificate of Correction on Patent No.: 6,969,187

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:

JONG-SUK (JAMES) LEE
SUPERVISORY PATENT EXAMINER

SPE: Jong-Suk Lee Art Unit 2885

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED
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OFFICE OF PETITIONS

In re Application of	:	
Abhishek Sharma et al	:	
Application No. 10/304,656	:	ON PETITION
Filed: November 25, 2002	:	
Attorney Docket No. 00-1269	:	

This is a decision on the petition filed May 11, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed January 4, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 5, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

Gene Scott
Patent Law & Venture Group
3151 Airway Ave., Suite K-105
Costa Mesa, CA 92626

MAILED

APR 22 2003

OFFICE OF DIRECTOR
GROUP

In re Application of
Yoram Neumark
Application No. 10/304,671
Filed: November 25, 2002
Attorney Docket No. Neumar.Y-02

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed March 18, 2003, to make the above-identified application special.

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

The petition complies with M.P.E.P. § 708.02, Item VIII: Accelerated Examination, in that it is accompanied by (a) a petition fee of $130.00, (b) a statement that all claims are directed a single invention and an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, or professional searchers, etc., the field of search was also provided, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter distinguishes over these references.

For the above stated reasons, the petition is GRANTED.

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

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

examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.

Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper N .: _____

DATE : Oct. 14, 2005

TO PETITIONS : 4700 (*Charlema Grant*)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,943,251

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

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

sp

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 x 20

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

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

Comments:

_____

_____

_____

_____

_____

SPE — **Art Unit** 1624

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Pat nt and Trad mark Office

Docket Number: CD01503
Application No: 10/304,674
Filing Date: 11/26/2002

PTO/SB/44 (04-04)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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

(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : US 6,943,251

DATED : 09/23/2005

INVENTOR(S) : GALA, Dinesh

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

In the Title of the Patent (Col. 1, Section (54), lines 1-2):

Please insert "PIPERIDINE," between – SALTS OF– and
– 4-4[4-[(1R)-4-TRIFLUOROMETHYL)–

MAILING ADDRESS OF SENDER:
PALAIYUR S. KALYANARAMAN
Schering-Plough Corporation, Patent Dept. K-6-1, 1990
2000 Galloping Hill Road, Kenilworth NJ 07033-0530

PATENT NO. US 6,943,251

No. of additional copies

1 of 1

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.

OCT 0 3 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

ARENT FOX KINTNER PLOTKIN & KAHN
SUITE 400
1050 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036-5339

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JUN 0 8 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Shigeharu Matsushita	:
Application No. 10/304,691	:
Filed: November 27, 2002	:
Attorney Docket No. 024808-00009	:

This is a decision on the petition, filed May 27, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

P titioner is advised that the issue fee paid on May 5, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2818 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ARENT FOX KINTNER PLOTKIN & KAHN PLLC
1050 CONNECTICUT AVENUE NW, SUITE 400
WASHINGTON, DC 20036-5339

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AUG 12 2005

OFFICE OF PETITIONS

In re Application of	:
Shigeharu Matsushita	:
Application No. 10/304,691	: DECISION GRANTING PETITION
Filed: November 27, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 024808-00009	:

This is a decision on the petition, filed August 5, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 16, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2818 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : ~~7/6/06~~ 7/24/06

Paper No.: _____

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/304712 Patent No.: 7023421 B2

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

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

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

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

SPE

2629
Art Unit

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

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,653,621	2003-11-25	10304724	2002-11-25	MVIS 98-08 D2

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kevin D. Wills/	Date (YYYY-MM-DD)	2007-12-24
Name	Kevin D. Wills	Registration Number	43993

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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In re Patent No. 6653621
Issue Date: November 25,2003
Application No. 10304724
Filed: November 25,2002
Attorney Docket No. MVIS 98-08 D2

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

This is a decision on the electronic petition, filed December 24,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 24,2007. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JJGJR.: 08-07

Paper No: __

COPY MAILED

AUG 27 2007

OFFICE OF PETITIONS

G. LINK CO. LTD.
3550 BELL ROAD
MINOOKA IL 60447

In re Application of	:	
Hsu	:	DECISION
Application No.: 10/304,737	:	
Filing Date: 27 November, 2002	:	
Attorney Docket No. BHT/3134-93	:	

This is a decision on the petition filed on 3 July, 2006, to withdraw the holding of abandonment and considered under 37 C.F.R. §1.181.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- on 3 November, 2004, Petitioner filed a Revocation/Power of Attorney, which appears not to have been acted upon and entered by the Office–although a concurrently filed Election was noted and entered;

[1] NOTE: **Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

- thereafter, on 18 February, 2005, the Examiner mailed an *ex parte Quayle* action, with Petitioner's reply due, absent an extension of time, on or before 18 April, 2005–this Office action appears to have been mailed, however, not to the address set forth in the Revocation/Power of attorney, but to the to address of record before that filing;

- when Petitioner failed to reply to the *ex parte Quayle* action, the application went abandoned by operation of law after midnight 18 April, 2005;

- on 17 August, 2005, Petitioner inquired of the Office whether the address of record had been updated to comply with Petitioner's prior-filed Revocation/Power of Attorney, and further indicated that he had received a telephone call from the Examiner–at which time it was discovered that the *ex parte Quayle* action had been sent by the Office to the incorrect address–and Petitioner then requested that the Office remail the *ex parte Quayle* action;

- on 15 June, 2006, the Office mailed the Notice of Abandonment;

- on 3 July, 2006, Petitioner filed the instant petition, pointed to the prior-filed Revocation/Power of Attorney–which appears as of this writing now to have been made of record by the Office–again indicated that he did not receive the Office action because the Office mailed the papers to an incorrect address, and requested withdrawal of the holding of abandonment.

Out of an abundance of caution, Petitioners always are reminded that:

- the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and

- those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

---

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

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

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be

STATUTES, REGULATIONS AND ANALYSIS

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

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

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signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6]

And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

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

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[9]

Further, the commentary at MPEP §711.03(c) provides:

* * *

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application

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

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

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

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[9] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.
>
> * **
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)
>
> * * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

While Petitioner has not recited that he has searched his files and not found therein the Office action in question, what is clear from a review of the record is that, despite Petitioner's timely Notice to the Office of a Revocation/Power of Attorney, the Office nonetheless mailed the Office action in question to an old and incorrect address, and Petitioner appears, therefore, to have satisfied the showing requirements described above.

CONCLUSION

Because Petitioner has satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 is **granted** as to the withdrawal of the 15 June, 2006, Notice of Abandonment–which hereby is **vacated**.

The instant application is released to Technology Center 2800 with instructions to remail the Office action previously mailed to the incorrect address on 18 February, 2005.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[10]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SMITH GAMBRELL & RUSSELL, LLP
SUITE 800
1850 M STREET, N.W.
WASHINGTON DC 20036

RGW/MM
032301.173.1

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DEC 06 2007
OFFICE OF PETITIONS

In re Application of :
Andreas Tauch et al :
Application No. 10/304,743 : DECISION GRANTING PETITION
Filed: November 27, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 32301.173.1 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 12, 2004 and resubmitted on May 31, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an executed declaration and the required fees; (2) the petition fee; 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 16, 2003, is accepted as having been unintentionally delayed.

The Office sincerely apologizes for the delay in replying to the papers filed February 12, 2004, which were incorrectly coded.

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

This matter is being referred to the Office of Initial Patent Examination.

Karen Creasy
Karen Creasy
Petitions Examiner
Office of Petitions

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RLM

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SMITH GAMBRELL & RUSSELL, LLP
SUITE 800
1850 M STREET, N.W.
WASHINGTON DC 20036

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DEC 06 2007

OFFICE OF PETITIONS

In re Application of :
Andreas Tauch et al :
Application No. 10/304,743 : DECISION GRANTING PETITION
Filed: November 27, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 32301.173.1 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 12, 2004 and resubmitted on May 31, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an executed declaration and the required fees; (2) the petition fee; 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 16, 2003, is accepted as having been unintentionally delayed.

The Office sincerely apologizes for the delay in replying to the papers filed February 12, 2004, which were incorrectly coded.

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

This matter is being referred to the Office of Initial Patent Examination.

Karen Creasy
Petitions Examiner
Office of Petitions

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ARENT FOX PLLC
1050 CONNECTICUT AVENUE NW
SUITE 400
WASHINGTON, DC 20036

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JUL 14 2005

OFFICE OF PETITIONS

In re Application of	:
Shouichi Kawamura	:
Application No. 10/304,762	: DECISION GRANTING PETITION
Filed: November 27, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 100353-00134	:

This is a decision on the petition, filed July 12, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 16, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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 Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.,
SUITE 400
WASHINGTON, DC 20036-5339

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JUL 18 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Akira Suga et al	:	
Application No. 10/304,764	:	
Filed: November 27, 2002	:	
Attorney Docket No. 108066-00076	:	

This is a decision on the petition, filed July 10, 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 July 26, 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 3729 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

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United States Patent and Trademark Office
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Frank A. Spear
10264 Champions Court
Ijamsville MD 21754

AUG 29 2006

In re Application of GORSKI et al.
Appl. No.: 10/304,769
Filed: November 27, 2002
For: NIPPLE COVER

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed June 13, 2005, to expunge information from the above identified application. The required petition fee under 37 CFR 1.17(g) has not been received.

The petition is dismissed.

Petitioner requests that alleged prior art cited and applied by the Examiner during prosecution of the application be expunged from the record. Petitioner bases his request upon alleged insufficient documentation of publication date of the prior art references.

Petitioner's position is tantamount to a challenge of the sufficiency of the Examiner's prior art rejections and as such is an appealable issue inappropriate for resolution via petition. Additionally, the petition fails to meet any of the six requirements for a grantable peititon as set forth in MPEP 724.05. Petitioner is directed to MPEP 724 for guidance on the types of information appropriate for petition. As there is no basis for granting Petitioner's requested relief, the petition is dismissed.

Any questions regarding this petition decision should be directed to J. Harrison, Technology Center 3700 Special Programs Examiner at 571-272-4449.

PETITION DISMISSED.

Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

BRINKS HOFER GILSON &
LIONE/SanDisk
P.O. BOX 10395
CHICAGO IL 60610

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DEC 11 2008

In re Application of	:	
Ziv et al.	:	
Application No. 10/304,772	:	LETTER REGARDING
Filed: November 27, 2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 10519/506	:	

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT" filed October 23, 2008. Pursuant to applicants' duty of good faith and candor to the Office, applicants disclose that the Office has awarded six hundred twenty-one (621) days of patent term adjustment at the time of the mailing of the notice; however, it appears that applicants are entitled to only five hundred sixty (560) days.

The request for correction of the initial determination of patent term adjustment (PTA) is **DISMISSED**.

On July 25, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 621 days. Applicants do not state any basis for their disclosure that this PTA should be (reduced by 61 days to) 560 days.

The application history has been reviewed and it has been decided that the determination of patent term adjustment is correct. The review revealed no error in this calculation. Applicants should advise the Office of any specific basis for correction of the PTA.

The determination of PTA at the time of the mailing of the notice of allowance of six hundred twenty-one (621) days is correct.

As this letter was submitted as an attempt to advise the Office of an error in Applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

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

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

Nancy Johnson
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

Woodard, Emhardt, Naughton,
Moriarty and McNett
Bank One Center/Tower
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

COPY MAILED

JUN 27 2006

OFFICE OF PETITIONS

In re Application of Wechsler :
Application No.10/304,806 : Decision on Petition
Filing Date: November 26, 2002 :
Attorney Docket No. 31073-11 :

This is a decision on the petition filed June 25, 2004, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

Facts:

A non-final Office action was mailed February 4, 2003.

A reply was filed on August 4, 2003.

The examiner determined the reply was not fully responsive to the prior Office action.

Per 37 CFR 1.135(c), the examiner mailed an Office action on November 17, 2003.[1] The Office action set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later).

A Request for Continued Examination (RCE) and a request for a one-month extension of time were filed February 17, 2004. Since the RCE was not filed by January 17, 2004, a two-month extension of time was charged to petitioner's deposit account.

A RCE may only be filed if prosecution is closed. Since prosecution was not closed, the RCE was improper.

On February 27, 2004, the Office mailed a "Notice of Improper Request for Continued Examination (RCE)." The Notice stated, "If the RCE was not accompanied by a reply, the time

[1] See 37 CFR 1.135(c).

period set forth in the last Office action continues to run from the mailing date of that action." The RCE was not accompanied by a reply.

Although the February 27, 2004 Notice included the address of record, the Notice was returned undelivered by the USPS.

The Notice of Improper Request for Continued Examination (RCE) was mailed a second time on March 4, 2004.

A proper reply was never filed in response to the *November 17, 2003* Office action. Since an extension of time of two months was obtained, the application became abandoned at midnight on February 17, 2004.

The instant petition to withdraw the holding of abandonment was filed June 25, 2004.

At the time the petition was filed, Technology Center 2800 was responsible for considering the merits of the petition. Near the end of the year 2005, responsibility for petitions to withdraw the holding of abandonment was transferred to the Office of Petitions. The petition was forwarded to the Office of Petitions on June 20, 2006.

Discussion:

Petitioner correctly contends the RCE was timely filed. However, the RCE was not a proper response to the November 17, 2003 Office action. Therefore, the application is abandoned and the petition cannot be granted.

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

Petitioner should note that, upon explicit request, the RCE fee of $395 may be applied towards the $750 petition fee listed above.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." 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 facsimile: (571) 273-8300
Attn: Office of Petitions

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

06232006

Woodard, Emhardt, Naughton,
Moriarty and McNett
Bank One Center/Tower
111 Monument Circle, Suite 3700
Indianapolis IN 46204-5137

JUL 3 2006

In re Application of John L. WECHSLER et al. Application No. 10/304,806 Filed: November 26, 2002 For: Portable System for Digital Photo Management	: : : : :	DECISION ON PETITION

This is a decision on the petition filed June 25, 2004, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition to withdraw the holding of abandonment is **GRANTED.**

A non-responsive Office action was mailed on November 17, 2003, setting a one-month or thirty day period of response. Applicant responded by filing a Request for Continued Examination (RCE) on February 17, 2004, along with a Petition for a Two-Month Extension of Time. The RCE was held improper and a Notice of Improper Request for Continued Examination was mailed on February 27, 2004. The application became abandoned by operation of law and a Notice of Abandonment was mailed June 17, 2004.

Petitioner states, that at the examiner's suggestion, a RCE was filed in response to the non-responsive Office action. Petitioner also states that no further correspondence had been received relating to this matter since the filing of the RCE, until the Notice of Abandonment was received on June 21, 2004.

A review of the written record indicates that the Notice of Improper Request for Continued Examination was returned by the United States Postal Service as undeliverable mail.

MPEP § 707.13 states the Office policy with regards to returned Office actions. Office actions are sometimes returned to the Office because the United States Postal Service has not been able to deliver them. The examiner should use every reasonable means to ascertain the correct address and forward the action again, after stamping it "remailed" with the date thereof and redirecting it

if there is any reason to believe that the action would reach applicant at such new address. If the Office action was addressed to an attorney, a letter may be written to the inventor or assignee informing him or her of the returned action. The period running against the application begins with the date of remailing. *Ex parte Gourtoff*, 1924 C.D. 153, 329 O.G. 536 (Comm'r Pat. 1924).

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn. The failure of the examiner to ascertain the correct correspondence address and to remail the Notice of Improper Request for Continued Examination was insufficient to hold the application abandoned.

The application file is being forwarded to Technology Center 2800 support staff for remailing the Notice of Improper Request for Continued Examination. The shortened statutory period for response set therein will be reset to run from the date that the Notice is remailed.

Questions regarding this decision should be directed to Jose' G. Dees at (571) 272-1569.

Arthur Grimley, Acting Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

SPE J. Wilson

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/18/06

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/304,810 Patent No.: 6949550

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

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

1624
Art Unit

UNITED STATES PATENT
AND TRADEMARK OFFICE

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

Date Mailed: 6, 2008
Patent No. :6,869,985 B2
Ser. No. :10/304816
Inventor(s) :Amar Kumar Mohanty, et al.
Issued :March 22, 2005
Title: ENVIRONMENTALLY FRIENDLY POLYLACTIDE-BASED COMPOSITE FORMULATIONS

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 is hereby denied.

A certificate of correction will issue for the remaining errors in your request, except adding the foreign **reference** since there is no record on the **1449 or 892** where references were considered by the examiner.

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.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 116

Armstrong World Industries, Inc.
2500 Columbia Ave.
P.O. Box 3001
Lancaster, PA 17604-3001

MD/mt

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

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OFFICE OF PETITIONS

In re Application of :
Beyerle et al. :
Application No. 10/304,837 : DECISION ON PETITION
Filed: November 26, 2002 :
Attorney Docket No. J&M-47 :

This is a decision on the petition under 37 CFR 1.181, filed October 26, 2006, to withdraw the holding of abandonment for the above-identified application.

On March 7, 2006, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period for reply. In the apparent absence of a timely filed reply, the Office mailed a Notice of Abandonment on October 20, 2006.

Applicants asserted that they filed a timely reply to the nonfinal Office action, which was received in the USPTO on May 9, 2006. Applicants stated that the reply is viewable on PAIR in the Image File Wrapper for the subject application. Applicants provided the Office with a copy of the reply and a copy of an Electronic Acknowledgment Receipt, which indicates that the USPTO received a one-page Transmittal letter and a two-page response on May 9, 2006.

Upon a review of the record, the Office located the response to the nonfinal Office action submitted on May 9, 2006. Accordingly, the petition to withdraw the holding of abandonment is **granted**. The holding of abandonment is hereby withdrawn. The application is restored to pending status in view of the fact that a response to the nonfinal Office action was filed timely and received in the USPTO on May 9, 2006.

The matter is being referred to the Technology Center Art Unit 1615.

Telephone inquiries concerning this matter 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

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1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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APR 29 2008

OFFICE OF PETITIONS

In re Application of :
Bell et al. :
Application No. 10/304,838 : ON PETITION
Filed: November 25, 2002 :
Attorney Docket No. 42P6693C :

This is a decision on the petition under 37 CFR §§ 1.78(a)(3), filed March 31, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 for the benefit of the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR §§ 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Along with the instant petition under 37 CFR §§ 1.78(a)(3), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed application.

The current procedure where a claim for priority under 37 CFR §§ 1.78(a)(3) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR §§ 1.78(a)(2)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) 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 instant case, the Office noted the claim for priority of the prior-filed application in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt mailed January 16, 2003.

In view of the above, the $1410.00 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to the undersigned at (571) 272-3206. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

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[1] *Note* MPEP 201.11 (V), page 200-75 (Rev. 1. Feb. 2004 and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

UNITED STATES 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

WOLF GREENFIELD & SACKS
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON, MA 02210-2211

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OFFICE OF PETITIONS

In re Application of
Juri H. Krieger et al
Application No. 10/304,863
Filed: November 27, 2002
Attorney Docket No. C01140/70005.US

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 15, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on November 27, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

This application is being forwarded to Technology Center Art Unit 2826 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed nonprovisional Application No. 10/238,880, filed September 11, 2002.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WELSH & KATZ LTD.
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22ND FLOOR
CHICAGO, IL 60606

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SEP 19 2006

OFFICE OF PETITIONS

In re Application of	:
Anthony J. Dezonno et al	:
Application No. 10/304,872	: DECISION GRANTING PETITION
Filed: November 26, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 6065-85074	:

This is a decision on the petition, filed September 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 August 28, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2614 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Sept9\304872.wpd

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

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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Nancy R. Gamburd
DYKEMA GOSSETT PLLC
55 East Monroe Street
Suite 3050
Chicago, IL 60603

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FEB 03 2005

OFFICE OF PETITIONS

In re Application of :
Robert G. Renninger :
Application No. 10/304,885 :
Filed: November 26, 2002 : ON PETITION
Title of Invention: :
INTERCONNECTED MULTI-STAGE :
OSCILLATOR :

This is a decision on the Petition for Notice of Abandonment to be Withdrawn and for the Application to be Reinstated, and Alternatively, Petition to Revive Unintentionally or Unavoidably Abandoned Application, filed July 22, 2004. The petition is properly treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment. The delay in treating this petition is regretted.

The petition is **granted.**

The above-identified application became abandoned for failure to timely reply to the Notice to File Corrected Application Papers, mailed January 15, 2003. The Notice required replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121, and set a three (3) month period for reply. No reply having been received, the above-identified application became abandoned April 16, 2003. A Notice of Abandonment was mailed June 1, 2004.

Applicant's Assertion

Applicant asserts that a timely reply to the Office action including, *inter alia*, Formal Drawings and a one-month extension of time request and fee, were filed on March 25, 2003. In support of this assertion, Applicant provides, *inter alia*, copies of the Formal Drawings; a copy of the Notice; a copy of a petition for extension of time and authorization to charge deposit account 50-1262, and a copy of a Certificate of Mailing certifying that that the Formal Drawings were mailed to this

Office on March 25, 2003. Applicant avers that, due to a scrivener's error, the application number was entered on the Cover Letter as application serial number 10/304,855, instead of 10/304,885.

A review of Application serial number 10/304,855, reveals that drawings were received in the Office and placed in that application on March 31, 2003. The same drawings have been filed in this petition. Apparently the drawings were filed in this Office on March 31, 2003 (Certificate of Mailing dated March 25, 2003), and due to errors on the part of applicant and this Offcice, were inadvertently placed in application serial number 10/304,855. Accordingly, the petition is granted.

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

No petition fee has been charged and none is due. The one month extension of time fee, charged to deposit account 50-1262 in application no. 10/304,855, has been removed and charged to application no. 10/304,885.

The application file is being referred to the Office of Initial Patent Examination for continued processing in due course.

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

Derek L. Woods
Attorney/Advisor
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/23/06

TO SPE OF : ART UNIT 3711

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/304487 Patent No.: 7038648

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**.

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext.

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SUMATI LEFKOWITZ
SUPERVISORY PATENT EXAMINER
SPE

2629
Art Unit

CofC

U.S. Patent No. 7,038,648 B2
Attorney Docket No.: 15162/04990

OIPE IAP75 MAY 12 2006 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U. S. Patent No.:	7,038,648 B2
Issued:	May 2, 2006
By:	Eiji YAMAKAWA and Naoki MASAZUMI
For:	METHOD AND A DEVICE FOR DRIVING A LIQUID CRYSTAL DISPLAY, AND A LIQUID CRYSTAL DISPLAY APPARATUS
U.S. Serial No.:	10/304,887
Filing Date:	November 26, 2002

Certificate MAY 17 2006 Of Correction

Certificates of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Certificates of Correction Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, Va. 22313-1450 on:

MAY 8, 2006
Date of Deposit

THOMAS N. TARNAY
Name of Applicant, Assignee, or Registered Representative

Signature

MAY 8, 2006
Date of Signature

Dear Sir:

REQUEST FOR CERTIFICATE OF CORRECTION

It is respectfully requested that a Certificate of Correction be issued for U.S. Patent No. 7,038,648 B2 issued May 2, 2006 for the purpose of correcting an error that occurred in the printing of the patent.

Attached in duplicate is Form PTO-1050 (PTO/SB/44), with at least one copy being suitable for printing.

The printing error contained in U.S. Patent No. 7,038,648 B2 is set forth below:

Column 18, line 49, claim 25, "claim 21," was incorrectly printed as "claim 20," (See page 9, application claim 28, line 1, of the Amendment filed on August 30,

MAY 17 2006

2006 (mailed to the Patent and Trademark Office on August 25, 2006). Application claim 28 was renumbered as claim 25 which is dependent to claim 20 which was renumbered as claim 21 when the patent was printed.

The foregoing error occurred in the printing of the patent, and thus constitutes an error by the Patent and Trademark Office.

Please issue a Certificate of Correction and transmit the Certificate to the attorney whose signature and address appear below.

Respectfully submitted,

By:_____
Thomas N. Tarnay
Registration No. 41,341
Attorney for Patentees

TNT/llb
SIDLEY AUSTIN LLP
717 North Harwood, Suite 3400
Dallas, Texas 75201
(214) 981-3388 Direct
(214) 981-3300 Main
(214) 981-3400 Facsimile
May 8, 2006

DA1 351990v.1

MAY 17 2006

PTO/SB/44 (05-03)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,038,648 B2

DATED : May 2, 2006

INVENTOR(S) : Eiji Yamakawa and Naoki Masazumi

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

Column 18:
Line 49, delete "claim 20," and insert -- claim 21, --.

MAILING ADDRESS OF SENDER:

Sidley Austin LLP
717 North Harwood, Suite 3400
Dallas, Texas 75201

PATENT NO. 7,038,648 B2

No. of additional copies

This collection of information is required by 37 CFR 1.322, 1.323,, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

MAY 17 2006

PTO/SB/44 (05-03)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,038,648 B2

DATED : May 2, 2006

INVENTOR(S) : Eiji Yamakawa and Naoki Masazumi

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

Column 18:
Line 49, delete "claim 20," and insert -- claim 21, --.

MAILING ADDRESS OF SENDER:

Sidley Austin LLP
717 North Harwood, Suite 3400
Dallas, Texas 75201

PATENT NO. 7,038,648 B2

No. of additional copies

This collection of information is required by 37 CFR 1.322, 1.323,, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

MAY 17 2006

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

MAR 21 2003

PAPER NO. 3

In re Application of Jeremy Barker et al. Serial No. 10/304,890 Filed: November 25, 2002 For: LITHIUM-BASED ACTIVE MATERIALS AND PREPARATION THEREOF	DECISION ON PETITION UNDER 708.02,V

This is in response to the petition filed November 25, 2002, requesting that the above-identified application be granted Special Status under Section 708.02 (V), and alternatively under Section 708.02 (VIB) of the MPEP and 37 CFR 1.102(c) (no fee required).

The petition for Special Status considered under Section 708.02 (V) is denied because of the absence of verified statement explaining how lithium based active materials as disclosed contribute to the restoration or maintenance of air, water or soil.

The request for Special status under section 708.02 (VI) is granted because criteria under 37 CFR 1.102 (c) has been met.

Accordingly, the petition has been GRANTED.

JMStone

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

Valence Technology, Inc.
301 Conestoga Way
Henderson, NV 89015

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

DAVID M. FRISCHKORN
McDONNELL BOEHNEN HULBERT & BERGHOFF
32ND FLOOR
300 S. WACKER DRIVE
CHICAGO, IL 60606

COPY MAILED

JUL 0 9 2003

OFFICE OF PETITIONS

In re Application of	:	
Charles A. Duell et al	:	
Application No. 10/304,905	:	DECISION GRANTING PETITION
Filed: November 26, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 02-1025	:	

This is a decision on the petition, filed May 1, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on February 6, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The 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 May 27, 2004 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center Art Unit 3745 for examination in due course.

Frances Hicks

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

10/304,911

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-22-04

TO SPE OF : ART UNIT 2825

SUBJECT : Request for Certificate of Correction on Patent No.: 6,777,261

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

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

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

Magdalene Talley

Thank You For Your Assistance — **Certificates of Correction Branch**

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

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

Comments:

There is nothing in the file record to indicate that priority is based on SN 09/143,765. In any event, 09/749,110 is a division (not continuation) of 09/143,765

Olik Chaudhuri OC
Supervisory Patent Examiner
Technology Sector 2800

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAR 15 2007

OFFICE OF PETITIONS

KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

In re Application of	:
Tomura, et al.	: DECISION ON APPLICATION
Application No. 10/304,925	: FOR PATENT TERM ADJUSTMENT
Filed: November 26, 2002	:
Atty. Dkt. No: FUJI 13.199D	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705" filed October 13, 2006. This matter is being properly treated under 37 CFR 1.705(b) as an application for patent term adjustment.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **DISMISSED**.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application, mailed September 14, 2006, indicated that the PTA to date is zero days. The instant application for patent term adjustment was timely filed October 13, 2006 wherein applicants argue the application is entitled to an adjustment of 33 days.

Applicants do not dispute the adjustment of 274 days attributable to the Office in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1).

While applicants do not dispute the reductions totaling 202 days attributable to applicants' failure to engage in reasonable efforts to conclude prosecution, applicants do dispute the reduction of 75 days in connection with the Information Disclosure Statement (IDS) submitted August 1, 2005.

Applicants argue that the IDS discloses a Japanese Office Action issued on May 24, 4005, including references cited therein, and that the IDS should not be considered a failure to engage in reasonable efforts to conclude prosecution for at least 30 days after issuance of the Japanese Office Action. Applicants conclude that the IDS should only have resulted in a 39 day reduction rather than 75 days.

The submission of the IDS on August 1, 2005 is deemed a supplemental reply within the meaning of 37 CFR 1.704(c)(8). Accordingly, the reduction began May 19, 2005, the day after the date the reply to the non-final Office action was filed, and ended August 1, 2005, the date that the supplemental reply (IDS) was filed.

Applicants are further advised that 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. *See*, 37 CFR 1.704(d).

The IDS submitted August 1, 2005 does not comply with the requirements of 37 CFR 1.704(d).

Accordingly, the reduction of 75 days for applicants' failure to engage is reasonable efforts to conclude prosecution was properly calculated by the Office.

In view thereof, at the time of allowance, the application was entitled to an adjustment zero days for Office delays, as indicated in the Determination of Patent Term Adjustment mailed September 14, 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 required PTA application fee of $200.00 has been charged to applicants' deposit account as authorized.

The application file is being forwarded to the Office of Patent Publication 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 Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

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DEC 2 4 2003

OFFICE OF PETITIONS

ON PETITION

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, NW
WASHINGTON DC 20037-3213

In re Application of
Tachibana et al
Application No. 10/304,944
Filed: November 27, 2002
Attorney Docket No. Q73023

This is a decision on the petition, filed December 23, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 26, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1732 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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OCT 21 2003

OFFICE OF PETITIONS

In re Application of	:
Masahiro Ito	:
Application No. 10/304,948	: DECISION GRANTING PETITION
Filed: 27 November, 2002	:
Att'y Docket No. 03560.003137	:

This is a decision on the petition filed on 17 March, 2003, requesting that the above-identified application be accorded a filing date of 27 November, 2002, with four (4) sheets of drawings as a part of the original disclosure.

The petition is **granted**.

On 27 November, 2002, the application was filed.

On 16 January, 2003, Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" stating that the application had not been accorded a filing date because the application was deposited without drawings and that the filing date of the application would be the date of receipt of the drawings.

In response, on 17 March, 2003, the present petition, and four (4) sheets of drawings were filed. Petitioner argues that four (4) sheets of drawings were filed with the other application papers on 27 November, 2002, and that the drawings were misplaced in the U.S. Patent and Trademark Office (Office). In support of the petition, a copy of petitioner's postcard receipt, which identifies the application by attorney docket number and the filing attorney's initials and contains an "Office-date" stamp of 27 November, 2002, and acknowledges receipt of, *inter alia*, 4 sheets of drawings was supplied with the present petition. Petitioner has also supplied a copy of four (4) sheets of drawings. Petitioner requests that the application, including four (4) sheets of drawings, be accorded a filing date of 27 November, 2002.

Upon review of the record, no sheets of drawings deposited on 27 November, 2002, have been located among the application papers located in the Official file. However, the evidence is convincing that the application papers deposited on 27 November, 2002, included four (4) sheets of drawings, which were subsequently misplaced in the USPTO. Therefore, the application, including the four (4) sheets of drawings, was complete on filing and entitled to a filing date of 27 November, 2002.

In view of the above, the petition is granted.

The Notice of Incomplete Nonprovisional Application mailed on 16 January, 2003, is withdrawn. No petition fee is due and none has been charged.

The application will be reprocessed with a filing date of 27 November, 2002, using the four (4) sheets of drawings supplied on 17 March, 2003.

The application is being returned to Initial Patent Examination Division for reprocessing with a filing date of 27 November, 2002, using the application papers filed on 27 November, 2002, and the four (4) sheets of drawings supplied with the present petition.

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
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FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO CA 92138-0278

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OFFICE OF PETITIONS

In re Application of

TOSKALA, Antti et al.
Application No. 10/304,949
Filed: November 27, 2002
Attorney Docket No. **061602-5175**

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 who are associated with customer No. 30542. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **ANTTI TOSKALA**
MANKKAANRINNE 2 C
ESPOO, 02180
FINLAND

cc: **CONNOLLY BOVE LODGE & HUTZ LLP**
1990 M. STREET NW, SUITE 800
WASHINGTON, DC 20036-3425

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/304,949	11/27/2002	Antti Toskala	061602-5175

CONFIRMATION NO. 6567

OC000000025198596

30542
FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

Date Mailed: 08/06/2007

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.

Michelle R. Eason

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

FORMER ATTORNEY/AGENT COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/07/06

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/304955** Patent No.: **7057782**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

DREW A. DUNN
SUPERVISORY PATENT EXAMINER

SPE

2872
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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PENNIE & EDMONDS
1667 K STREET NW
WASHINGTON, DC 20006

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OFFICE OF PETITIONS

In re Application of :
Adam Telerman et al :
Application No. 10/304,964 : ON PETITION
Filed: November 27, 2002 :
Attorney Docket No. 10918-004 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 21, 2006, 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 August 11, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on November 12, 2005. A Notice of Abandonment was mailed on April 5, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a request for continued examination, filing fee of $395, and submission as required by 37 CFR 1.114; (2) the petition fee of $750; and (3) a showing to the satisfaction of the Director that the entire delay was unintentional. Accordingly, the failure to timely reply to the final Office action of August 11, 2005 is accepted as being unintentionally delayed.

The petition is accompanied by a request to change the correspondence address of record. There is, however, no indication that the request is signed by a party who has been given a power of attorney to prosecute the above-identified application. If it is desired to receive future correspondence regarding this application sent to the requested address, the appropriate power of attorney documents must be submitted. If the power of attorney is by an assignee, compliance with 37 CFR 3.73(b) must be satisfied. While a courtesy copy of this decision is being mailed to the address noted on the request, 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 referred to Technology Center AU 1617 for processing the request for continued examination and for action on the submission (amendment) under 37 CFR 1.114.

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

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Jones Day
51 Louisiana Avenue NW
Washington, DC 20001

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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ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

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NOV 1 3 2006
OFFICE OF PETITIONS

In re Application of	:	
KATO, et al.	:	
Application No. 10/304,967	:	DECISION GRANTING PETITION
Filed: November 27, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0756-7090	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 16, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2822 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : November 13, 2006

TO : Director, Office of Patent Publication

FROM : Office of Petitions

SUBJECT : Withdrawal from Issue of **Application No. 10/304,967**

Applicant(s) : Kiyoshi, KATO, et al.
Application No. : 10/304,967
Filed : November 27, 2002

The above-identified application has been assigned Patent No. 7,141,463 and an issue date of November 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 November 28, 2006:

> **"All reference to Patent No. 7,141,463 to Kiyoshi, KATO, et al. of Japan for SEMICONDUCTOR DEVICE appearing in the Official Gazette of November 28, 2006 should be deleted since no patent was granted."**

Karen Creasy
Karen Creasy
Petitions Examiner
Office of Petitions

cc: Paul Harrison
Deneise Boyd
Mary Louise McAskill
Niomi Farmer
Mary E. Johnson (Cookie
Duane Davis (CDS)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Pape

DATE : 3-16-05

TO SPE OF : ART UNIT 3727

SUBJECT : Request for Certificate of Correction on Patent No.: 6837467

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

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, sho patent read as shown in the certificate of correction? No new matter should be introduced, n the scope or meaning of the claims be changed.

Please check Drawings sheets

Thank You For Your Assistance

Certificates of Correction

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
- [ ] Denied — State the reasons for denial below.

Comments:

SPE

3727

A

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and

LEE YOUNG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCDERMOTT, WILL & EMERY
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

COPY MAILED

APR 14 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Koji Nii :
Application No. 10/305,004 :
Filed: November 27, 2002 :
Attorney Docket No. 57454-822 :

This is a decision on the petition, filed April 8, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 22, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2827 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

SEP 1 0 2007

OFFICE OF PETITIONS

In re Application of	:	
HEIKES, et al.	:	
Application No. 10/305,015	:	DECISION ON PETITION
Filed: November 27, 2002	:	TO WITHDRAW
Attorney Docket No. **06975-293001**	:	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 2, 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 Scott R. Boalick. Scott R. Boalick 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 the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

FILE COPY

OIPE
NOV 16 2004
PATENT & TRADEMARK OFFICE

Applicant(s): Leonard Haslim

Serial No.: Not yet assigned

Filed: 11/25/2002

Title: ENVIRONMENTALLY FRIENDLY COMPOSITIONS HAVING ANTI-ICING, DEICING OR GRAFFITI PREVENTION PROPERTIES

10/305,053

Attorney Docket No.: 301-001CIP

Group Art Unit: Not yet assigned

Examiner: Not yet assigned

PETITION GRANTED

William Krynski
Special Program Examiner
TC 1
2-10-05

PETITION TO MAKE SPECIAL UNDER 37 C.

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

This is a Petition to Make Special the above-identified patent application. The oasis 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,

GREGORY SCOTT SMITH
Attorney
38,309

GREGORY SCOTT SMITH
Sr. Attorney
3900 Newpark Mall Road, Suite 317
Newark, CA 94560
Tel. (510) 742-7417

BEST AVAILABLE COPY

P.9, 2 of 4

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. 8

CORVIS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
7015 ALBERT EINSTEIN DRIVE
COLUMBIA MD 21046-9400

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JUN 2 5 2004

OFFICE OF PETITIONS

In re Application of :
Raman Kashyap et al. :
Application No. 10/305,042 : ON PETITION
Filed: November 26, 2002 :
Attorney Docket No. 011130 :

This is a decision on the petition filed June 8, 2004, under 37 CFR 1.47(a)

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

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time (and fee) 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) and 1.47(a)."

The above-identified application was filed November 26, 2002. Accordingly, on March 13, 2003, a "Notice To File Missing Parts Of Application" was mailed, requiring a signed oath or declaration and surcharge for its late filing.

In response to the "Notice", petitioners submit the present petition and authorization to charge the petition fee and surcharge, and a declaration naming Raman Kashyap, Andre Boudreault, Robert A. Harmon, Irina A. Kostko, Michael G. Martin, Patricia Scarsella, Feodor N. Timofeev, Pierre Tremblay, Martin Vezina and Claude Carignan as joint inventors.

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

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

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

(3) the petition fee;
(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and
(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1).

The evidence shows that letters were sent by a Paralegal, Linda Burton, no longer employed by the applicant, to all the inventors and that inventors Kashyap, Boudreault, Harmon, Kostko, Timofeev and Vezina executed and returned the declaration. The evidence further shows that, Paralegal Melinda Salin sent a second letter out to the four non-signing inventors. The proof submitted shows that the letters sent to inventors Scarsella and Tremblay were duly delivered to them. The in-action of inventors Scarsella and Tremblay to respond to the letters requesting that they execute the declaration, can be taken as refusal to cooperate with the filing of the application.

On the other hand however, the letters sent to inventors Martin and Carignan were returned undeliverable. The proof is insufficient to show that a diligent search has been conducted to locate inventors Martin and Carignan.

Ms. Salin can not swear that the letters sent to inventors Martin and Carignan were duly received by them and the petition, signed by Attorney Darren Wolf avers that the non-signing inventors "declined to assist or were unable to be found". With that, additional efforts to locate Mr. Martin and Mr. Carignan must be utilized.

Petitioners must present a showing that diligent efforts have been made to locate, and provide a copy of the application to, the non-signing inventors.[1] At a minimum, petitioners should provide a copy of the cover letter transmitting the application papers (specification including claims, drawings, if any, and the Declaration) to the non-signing inventors or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details. If the application is returned as undeliverable, petitioners should submit a copy of the envelope showing that the application was mailed to the inventor(s) last known address but was returned as undeliverable by the post office.

Additionally, if an inventor(s) cannot be reached at his or her last known address, petitioners must provide details, in an affidavit or declaration of facts by a person with first hand knowledge of the details, of the efforts, such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate that inventor, send or give a copy of the application papers to him or her, and request that he or she sign and return

---

[1] MPEP 409.03(d).

the declaration. If repeated attempts to contact an inventor(s) by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that an inventor(s) cannot be found despite diligent efforts.

If an inventor refuses in writing to sign the declaration, petitioners should submit that written refusal with any renewed petition. If an inventor refuses orally, then the person to whom that oral refusal was made must provide details of the refusal in an affidavit or declaration of facts.

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

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES 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

CORVIS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
7015 ALBERT EINSTEIN DRIVE
COLUMBIA MD 21046-9400

COPY MAILED
JUN 2 9 2004
OFFICE OF PETITIONS

In re Application of :
Raman Kashyap et al. :
Application No. 10/305,042 : ON PETITION
Filed: November 26, 2002 :
Attorney Docket No. 011130 :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed June 8, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

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

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

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

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

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

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

This application became abandoned May 14, 2003, for failure to timely reply to the Notice to File Missing Parts mailed on March 13, 2003, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed January 30, 2004.

Since the petition filed June 8, 2004, under 37 CFR 1.47(a) was dismissed in a decision mailed June 25, 2004, the required reply under 37 CFR 1.137(b), item 1 is lacking.

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

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

CORVIS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
7015 ALBERT EINSTEIN DRIVE
COLUMBIA MD 21046-9400

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SEP 24 2004

OFFICE OF PETITIONS

In re Application of
Raman Kashyap et al.
Application No. 10/305,042
Filed: November 26, 2002
Attorney Docket No. 011130

DECISION ACCORDING
STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition filed under 37 CFR 1.47(a) by facsimile transmission on August 25, 2004.

The petition is **GRANTED**.

The above-identified application was filed on November 26, 2002, naming Raman Kashyap, Andre Boudreault, Robert A. Harmon, Irina A. Kostko, Michael G. Martin, Patricia Scarsella, Feodor N. Timofeev, Pierre Tremblay, Martin Vezina and Claude Carignan as joint inventors Edward L. Sughure, Bobby G. Cockrell, Glenn W. Dodwell and Brent J. Bertus without a signed declaration. Accordingly, on March 13, 2003, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration. In response to the "Notice", a petition under 37 CFR 1.47(a) was filed June 8, 2004 but was dismissed in a decision mailed June 25, 2004.

Comes now the petitioner with this renewed petition and proof that while diligent efforts have been utilized to locate non-signing inventors Carignan and Martin, the efforts have been unsuccessful. The affidavit of Melinda Salin details the efforts utilized and substantiates the claim that Mr. Carignan and Mr. Martin cannot be located. In the previous petition filed June 8, 2004, with sufficient detail, petitioners showed that non-signing inventors Scarsella and Tremblay refused by their inactions, after having received the application papers, to cooperate with the filing of the instant application.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an

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 above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

Thus, as provided in Rule 1.47c, 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 concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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. 13

CORVIS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
7015 ALBERT EINSTEIN DRIVE
COLUMBIA MD 21046-9400

COPY MAILED

SEP 24 2004

OFFICE OF PETITIONS

In re Application of :
Raman Kashyap et al. :
Application No. 10/305,042 : ON PETITION
Filed: November 26, 2002 :
Attorney Docket No. 011130 :

This is a decision on the renewed petition under 37 CFR 1.137(b),[1] filed August 25, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned May 14, 2003, for failure to timely reply to the Notice to File Missing Parts mailed on March 13, 2003, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37

---

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

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

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

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

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

CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed January 30, 2004. A petition filed June 8, 2004 to revive the application was dismissed in a decision mailed June 29, 2004.

The reply in the form of an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and all other requirements of 37 CFR 1.137(b) have been properly remitted.

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

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/305,050	6/10/03	RAFEL T. BUSTOS	205392-9022

Title: **PRODUCT DISPLAY SHELVING ASSEMBLY**

Art Unit	Paper Number

Correspondence Address:
MARTIN L. STERN
LAFF, WHITESEL & SARET, LTD.
401 N. MICHIGAN AVE., STE. 1700
CHICAGO, IL 60611

Licensee under 35 U.S.C. 184 is hereby granted to file in any foreign country a patent application and any amendments thereto corresponding to the subject matter of this U.S. application identified above and/or any material accompanying the petition. This license is conditioned upon modification of any applicable secrecy order and is subject to revocation without notice.

License Number: 531,130

Grant Date: 14-Aug-03

This license is granted retroactively to the date(s) and the country(s) indicated on the attached decision.

Approved:

for Commissioner of Patents and Trademarks

This license empowers the filing, the causation and the authorization of the filing of a foreign application or applications on the subject matter identified above, subsequent forwarding of all duplicate and formal papers and the prosecution of such aplication or applications.

This license is granted under 37 CFR 5.15(a)

This license is to be retained by the licensee and may be used at anytime on or after the date thereof. This license is not retroactive unless specifically indicated.

The grant of this license does not in any way lesson the responsibility of the licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations, especially with respecct to certain countries, of other agencies, particularly the Department of the Treasury; Office of Munitions Control, Department of State (with respect to Arms, Munitions and Implements of War); the Bureau of Trade Regulation, Office of Export Adminstration, Department of Commerce; and the Department of Energy.

LICENSE FOR FOREIGN FILING

[Title 35, United States Code (1952) Sections 184, 185, 186]

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re:	BUSTOS et al.	:DECISION ON REQUEST
Petition No.:	10/305,050	:UNDER 37 CFR 5.25
Petition Filing Date:	June 10, 2003	

Title: PRODUCT DISPLAY SHELVING ASSEMBLY

This is a decision on the petition for retroactive foreign filing license.

It has been determined that a retroactive license for foreign filing under 35 U.S.C. 184 be granted with respect to the filing(s) listed below. The petition complies with 37 C.F.R. 5.25 in that there is an adequate showing that the subject matter in question was not under secrecy order, that the license was diligently sought, and that the material was filed abroad without the required license under 37 C.F.R 5.11 through error and without deceptive intent.

Country	Date
Canada	12/13/02
Mexico	12/18/02

Yvonne R. Abbott
Patent Examiner
Licensing & Review
(703) 308-2866

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BUCHANAN INGERSOLL PC
(INCLUDING BURNS, DOANE, SWECKER & MATHIS)
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

MAIL

AUG 2 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Alexander Olegovich Zhirkov, et al.
Serial No.: 10/305,070
Filed: October 27, 2002
For: **NODE STRUCTURE FOR REPRESENTING 3-DIMENSIONAL OBJECTS USING DEPTH IMAGE**

DECISION *SUA SPONTE* WITHDRAWING HOLDING OF ABANDONMENT

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

A non-final Office action was mailed on December 29, 2004 setting a shortened statutory period of 3 months for response. A response to the outstanding Office action has not been received. A Notice of Abandonment has not been mailed.

A review of the file record indicates that the non-final Office action mailed on December 29, 2004 was returned to the Office and thus it is evident that applicant did not receive the non-final Office action. Hence, there was an obvious irregularity in mailing of the Office action.

Accordingly, although no petition or request to withdraw the holding of abandonment has been filed, the holding of abandonment is hereby withdrawn and the non-final Office action initially mailed December 29, 2004 is hereby vacated.

The application is being forwarded to the Technology Center's technical support staff for re-mailing the non-final Office action and restarting the time period for response thereto.

Dwayne Bost
Special Programs 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

MAIL

AUG 2 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BUCHANAN INGERSOLL PC
(INCLUDING BURNS, DOANE, SWECKER & MATHIS)
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

In re Application of:
Alexander Olegovich Zhirkov, et al.
Serial No.: 10/305,070
Filed: October 27, 2002
For: **NODE STRUCTURE FOR REPRESENTING 3-DIMENSIONAL OBJECTS USING DEPTH IMAGE**

DECISION *SUA SPONTE*
WITHDRAWING HOLDING
OF ABANDONMENT

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

A non-final Office action was mailed on December 29, 2004 setting a shortened statutory period of 3 months for response. A response to the outstanding Office action has not been received. A Notice of Abandonment has not been mailed.

A review of the file record indicates that the non-final Office action mailed on December 29, 2004 was returned to the Office and thus it is evident that applicant did not receive the non-final Office action. Hence, there was an obvious irregularity in mailing of the Office action.

Accordingly, although no petition or request to withdraw the holding of abandonment has been filed, the holding of abandonment is hereby withdrawn and the non-final Office action initially mailed December 29, 2004 is hereby vacated.

The application is being forwarded to the Technology Center's technical support staff for re-mailing the non-final Office action and restarting the time period for response thereto.

Dwayne Bost
Special Programs 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

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DEC 2 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BUCHANAN INGERSOLL PC
(INCLUDING BURNS, DOANE, SWECKER & MATHIS)
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

In re Application of
Alexander Olegovich Zhirkov, et al.
Application No. 10/305,070
Filed: November 27, 2002
For: **NODE STRUCTURE FOR REPRESENTING 3-DIMENSIONAL OBJECTS USING DEPTH IMAGE**

DECISION ON PETITION
TO RESET PERIOD FOR REPLY

This is a decision on the petition filed on November 18, 2005, requesting that the Office communication mailed on September 26, 2005 be remailed and that the shortened statutory period for reply set forth in the Office communication, be reset to run from the remailed Office communication.

Petitioner states that a telephone call from the examiner of record indicated that the Office action had been returned to the U.S. Patent and Trademark Office. Upon the review of the Office's PAIR system, petitioner discovered that an Office action was mailed on September 26, 2005. Furthermore, petitioner stated that they performed a search of the file jacket and docket records, that the Office action was not received and also provided a copy of the docket records for the subject application.

Applicant's petition does not meet the criteria for restarting a time period to respond to an Office action as set forth in MPEP § 710.06. The petition does not satisfy the first example provided in MPEP §710.06 since applicant does not indicate when the Office action was received, i.e., only that a search of PAIR revealed that the Office was mailed on September 26, 2005. In addition, the petition does not provide any evidence of actual late receipt. Moreover, the petition does not meet the second example for restarting a time period given that applicant has not provided any evidence of a mailing date which was later than that printed on the September 26, 2005 Office communication.

Contrary to an earlier statement, a review of the application file does not reveal any evidence that the September 26, 2005 Office communication was returned to the Office as undeliverable.

However, had petitioner not reviewed PAIR and discovered that an Office action had been mailed on September 26, 2005, then absent a response from applicants with respect to the outstanding Office action, then the application would have been held as abandoned. The showing required to establish the failure to receive an Office communication in order to withdraw the holding of abandonment, must include a statement from the practitioner stating that the Office communication was not received by the Practitioner and attesting to the fact that a

search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received", 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c).

Petitioner has satisfied the requirements set forth above to withdraw a potential holding of abandonment for non-receipt of an Office communication, and thus petitioner has successfully demonstrated non-receipt of the Office communication mailed September 26, 2005.

Therefore, the petition is **GRANTED**.

Accordingly, the non-final Office action of September 26, 2005 is hereby vacated. The application file will be forwarded to the Technology Center's technical support staff for re-mailing the Office action and resetting the time period for response thereto.

It is requested that applicants verify the correspondence address given that this is the second consecutive Office action which has failed to reach applicants.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

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OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

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JAN 1 2 2005

OFFICE OF PETITIONS

In re Application of :
Dominique Lerouge, Helene Basuyau, :
Florian Trocme and Christian De : DECISION REFUSING STATUS
Gelis : UNDER 37 CFR 1.47(a)
Application No. 10/305,074 :
Filed: November 27, 2002
For: DEVICE FOR ELECTRICALLY CONTROLLING A PARKING AND/OR EMERGENCY BRAKE

This is in response to the "Petition Under 37 CFR 1.47(a)," filed August 27, 2003. The petition was recently forwarded to this office for consideration.

The petition is dismissed.

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

The above-identified application was filed on November 27, 2002 without an executed oath or declaration and naming Dominique Lerouge, Helene Basuyau, Florian Trocme and Christian De Gelis as joint inventors.

Accordingly, on February 27, 2003, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge their/its late filing.

In response, on August 27, 2003, the instant petition and a four (4) month extension of time were filed.

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

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

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

(3) the petition fee; and

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

Applicant lacks item (2), as set forth above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. Writing or markings of some sort appear in the non-signing inventor's signature block. The non-signing inventor's signature block should be left blank, or signed by all of the inventors on behalf of the the non-signing inventor. See MPEP 409.03(a).

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

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

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

By hand (effective 01/14/05):
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to Petitions Attorney Edward Tannouse at (571)272-3228.

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

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DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L STREET NW
WASHINGTON, DC 20037

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OFFICE OF PETITIONS

In re Application of	:	
Hiroyuki Kawamoto	:	
Application No. 10/305,102	:	DECISION GRANTING PETITION
Filed: November 27, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. R2184.0188/P188	:	

This is a decision on the petition, filed February 6, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 28, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2673 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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LEYDIG VOIT & MAYER
700 THIRTEENTH STREET, N.W., SUITE 300
WASHINGTON, DC 20005-3960

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OFFICE OF PETITIONS

In re Application of	:	
Denis Hertzog	:	
Application No. 10/305,156	:	ON PETITION
Filed: November 27, 2002	:	
Attorney Docket No. 403347	:	

This is a decision on the petition filed, June 8, 2005 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed March 30, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 1, 2004.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on June 8, 2005.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matters is being referred to Technology Center AU 2854 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

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NOV 01 2007

OFFICE OF PETITIONS

In re Application of	:
Valerie Niddam-Hildesheim et al	:
Application No. 10/305,180	: DECISION GRANTING PETITION
Filed: November 27, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1662/58006	:

This is a decision on the petition, filed October 31, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 12, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1624 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\Oct11\305180.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.*

DATE 10-31-07 APPLICATION NUMBER 10/305180

DOC CODE OMDS DOC DATE 11-1-07

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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Date : November 1, 2007

TO : Director, Office of Patent Publication

FROM : Office of Petitions

SUBJECT : Withdrawal from Issue of **Application No. 10/305,180**

Applicant(s) : Valerie Niddam-Hildesheim et al
Application No. : 10/305,180
Filed : November 27, 2002

The above-identified application has been assigned Patent No. 7,297,791 and an issue date of November 20, 2007.

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 November 20, 2007:

"All reference to Patent No. 7,297,791 to Valerie Niddam-Hildesheim et al of Israel for METHODS FOR THE PURIFICATION OF LEVOFLOXACIN appearing in the Official Gazette of November 20, 2007 should be deleted since no patent was granted."

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Paul Harrison
Deneise Boyd
Mary Louise McAskill
Niomi Farmer
Mary E. Johnson (Cookie)
Duane Davis (CDS)
Bradley Harris
Kimberly Terrell
Kay Pinkney
Betty Powell

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GIBB LP. LAW FIRM, LLC
2568-A RIVA ROAD SUITE 304
ANNAPOLIS MD 21401

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OFFICE OF PETITIONS

In re Application of	:	
Fori Owurowa et al.	:	
Application No. 10/305,206	:	DECISION ON PETITION
Filed: November 26, 2002	:	TO WITHDRAW
Attorney Docket No. ZIP.1001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 15, 2005.

The request is **NOT APPROVED**.

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

The request cannot be approved because 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, do not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will be directed to the above listed address from the change of address filed June 7, 2006 until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Charles Smoot 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

GIBB LP. LAW FIRM, LLC
2568-A RIVA ROAD SUITE 304
ANNAPOLIS MD 21401

In re Application of
OWUROWA, et al.
Application No. 10/305,206
Filed: November 26, 2002
Attorney Docket No. ZIP.1001

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 19, 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 Mohammad S. Rahman 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: **FORI OWUROWA**
1925-B VOORHEES AVENUE
REDONDO BEACH, CA 90278

cc: **ZIPTECK LLC**
2110 ARTESIA BOULEVARD, #150
REDONDO BEACH, CA 90278

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

Mail Date: 05/14/2010

Applicant	: Neil J. Bershad	: DECISION ON REQUEST FOR
Patent Number	: 7627111	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/305,222	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/25/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1373** 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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WASHINGTON DC 20005-3500

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Shunpei Yamazaki et al :
Application No. 10/305,226 :
Filed: November 25, 2002 :
Attorney Docket No. 07977-106003 :

This is a decision on the petition, filed July 7, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

P titioner is advised that the issue fee paid on March 4, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2871 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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CAMPBELL & FLORES LLP
4370 LA JOLLA VILLAGE DRIVE
7TH FLOOR
SAN DIEGO CA 92122

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OFFICE OF PETITIONS

Applicant: Huse et al.
Appl. No.: 10/305,231
Filing Date: November 25, 2002
Title: ANTI- ALPHAVBETA3 RECOMBINANT HUMAN ANTIBODIES, NUCLEIC ACIDS ENCODING SAME AND METHODS OF USE
Attorney Docket No.: 66797-160
Pub. No.: US 2003/0166872 A1
Pub. Date: September 4, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on November 4, 2003.

The request is DISMISSED.

The instant request is that the patent application publication be republished because in claim 4, "V[tm]" should be "V_H"; claim 20, "V,!" should be "V_H" and in claim 26, "F(ab)" should be "$F(ab)_2$".

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." **A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.**[1]

The typographical errors identified by applicant are Office mistakes, but they are not material mistakes as required by 37 CFR 1.221(b). The mistakes are not material mistakes as required because the errors are not readily apparent from the Office records, as the text of the application particularly with respect to the subscripts are of a poor quality. Applicants have been advised to file applications having cleaner text with sufficient clarity and contrast to permit reproduction to avoid errors in the patent application publication process. See 37 CFR 1.52. Additionally, it is noted that the claims have been canceled from the application.

The applicant is advised that a "request for republication of an application previously published"

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

may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), should be submitted via the EFS system and questions should be addressed as follows:

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

By facsimile: 703-872-9306

The application will be examined in due course.

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

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

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P. O. BOX 14300
WASHINGTON, DC 20044-4300

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OFFICE OF PETITIONS

In re Application of
Yuji Otsuka et al
Application No. 10/305,251
Filed: November 27, 2002
Attorney Docket No. 56202.51792US

DECISION DISMISSING PETITION
UNDER 37 CFR 1.313(a)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 5, 2007, which is being treated as a petition under 1.313(a), 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 28, 2007, with the issue fee being due on or before December 28, 2007. There is no indication that the issue fee has been paid.

The filing of a petition under 37 CFR 1.313(a) is unnecessary here, since the mere filing of a Request for Continued Examination (RCE) and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3218.

The matter is being referred to Technology Center AU 2624 for appropriate processing of the RCE filed November 5, 2007, and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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Paper No. 8

PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK, CA 94026

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OFFICE OF PETITIONS

In re Application of Moon et al. Application No. 10/305,254 Filed: November 25, 2002 Title of Invention: 0.6-2.5 GBAUD CMOS TRACKED 3X OVERSAMPLING TRANSCEIVER WITH DEAD ZONE PHASE DETECTION FOR ROBUST CLOCK/DATA RECOVERY	ON PETITION

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

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), mailed January 8, 2003. The Notice required the basic filing fee, an executed oath/declaration, and a late filing fee or oath or declaration surcharge. The Notice set a two (2) month period for reply from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a).

Applicant filed a Response to Notice to File Missing Parts of Nonprovisional Application; A Request to Process and Retain; with Petition for Four Month Extension of Time, on July 10, 2003; however, no response to the Notice was included.

Applicant was advised in a Notice of Incomplete Reply (Nonprovisional), mailed August 15, 2003, that a reply to the Notice was required and that the period for reply remained as set forth in the Notice.

No reply having been received, the application became abandoned on March 9, 2003.

With the instant Renewed Petition, Petitioner has filed the appropriate fees and an executed oath or declaration in response to the Notice, and satisfied the requirements of a grantable petition under 37 CFR 1.137(b).

The oath or declaration has been entered and made of record.

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

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

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Mailed: 1-23-07

DWW

Paper No. ____

In re Application of
Abuelyaman et al.
Serial No.: 10/305,258
Filed: November 27, 2002

DECISION ON PETITION UNDER *37 CFR 1.48(b)*

For: RESIST PATTERN THICKENING MATERIAL, RESIST PATTERN AND FORMING PROCESS THEREOF, AND SEMICONDUCTOR DEVICE AND MANUFACTURING PROCESS THEREOF

This is a decision on the request for CORRECTION OF INVENTORSIP UNDER 37 C.F.R. 1.48(b) (herein treated as PETITION TO DELETE CORRECTLY NAMED PERSON WHO IS NOT INVENTOR OF INVENTION NOW BEING CLAIMED) filed December 22, 2006 to correct inventorship under 37 CFR 1.48(b) by deleting the name of Takahisa Namiki, Junichi Kon, and Ei Yano from the list of inventors of the instant application.

It is noted that the applicant has met the requirements of (1) a petition including a statement identifying each named inventor who is being deleted and acknowledging that the inventor's invention is no longer being claimed in the application; and (2) the fee set forth in 37 CFR 1.17(i).

The petition is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

D. W. Wu

David W. Wu
Supervisory Patent Examiner
Art Unit 1713
Technology Center 1700

WESTERMAN, HATTORI, DANIELS
& ADRIAN, LLP
1250 Connecticut Avenue, NW
Washington CD, 20036

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 2, 2005

TO SPE OF : ART UNIT 2823

SUBJECT : Request for Certificate of Correction on Patent No.: 6,890,840

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:

Approved. IDS indicates pub date of 2/8/89 but document shows publication date of 8/20/90. Consequently, the change to date in this document is correct.

SPE

2823
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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MAR 18 2004

STEPHEN B. MAEBIUS
FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:
Gary L. Griffiths et al	:
Serial No.: 10/305,268	: WITHDRAWAL OF ATTORNEY
Filed: November 27, 2002	:
Attorney Docket No.: 018733-1154	:

This is in response to applicants' attorneys' request, filed February 26, 2004, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.

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

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

Robert C. Kain, Jr.
750 Southeast Third Avenue
Suite 100
Ft. Lauderdale, FL 33316-1153

COPY MAILED

JUN 2 5 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Henry T. H. Hsu	:	
Application No. 10/305,288	:	
Filed: November 27, 2002	:	
Attorney Docket No. 2001-29	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 10, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed January 6, 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 after midnight March 6, 2003. A Notice of Abandonment was mailed June 1, 2004.

In response, petitioner submitted with the instant petition $665 for the petition to revive fee, a Terminal Disclaimer along with the $55 fee, and two (2) sheets of formal drawings containing Figures 1-6.

Since the requirements for a grantable petition have been met, the petition is **GRANTED**.

37 CFR 1.137(c) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted on the above-identified application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the above-identified application. Since the application is a utility or plant application filed after June 8, 1995, a terminal disclaimer is not required. Accordingly, the terminal disclaimer filed with the instant petition is unnecessary. Therefore, the fee of $55will be refunded to petitioner's deposit account.

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

Telephone inquiries concerning this decision 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080423

DATE : April 23, 2008

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction on Patent No.: 10/305,299

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:

Please correct the "resister" with "resistor", & add the prior art, Lee et al. US 6,892,062 B2, to item (56), Reference cited.

C.C.

SPE: /Edward Urban/ Art Unit 2618

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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WENDEROTH LIND & PONACK LLP
2033 K STREET NW - SUITE 800
WASHINGTON, DC 20006-1021

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MAY 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Takashi Ogura et al :
Application No. 10/305,344 : DECISION GRANTING PETITION
Filed: November 27, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2002_1540A :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 17, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2643 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCDERMOTT WILL EMERY
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

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APR 21 2004

OFFICE OF PETITIONS

In re Application of :
Seiichi Banba :
Application No. 10/305,359 :
Filed: November 27, 2002 :
Attorney Docket No. 50024-014

ON PETITION

This is a decision on the petition, filed April 7, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 8, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

The file will be forwarded to Technology Center AU 2817 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
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
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ALEXANDRIA, VA 22313-1450
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Paper No. 6

VENABLE BAETJER HOWARD AND CIVILETTI LLP
PO BOX 34385
WASHINGTON DC 20043-9998

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MAY 3 0 2003
OFFICE OF PETITIONS

In re Application of Goldwerger, et al. Application No. 10/305,373 Filed: November 27, 2002 Attorney Docket No. 30485-181799	: : : : :	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed March 17, 2003.

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

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

The above-identified application was filed on November 27, 2002, as a continuation-in-part of parent application no. 09/665,291, using the declaration from the parent application.[1] On January 16, 2003, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring the statutory basic filing fee together with the surcharge for its late filing, and a substitute specification. This Notice set a two-month period for reply.

In reply, on March 17, 2003, applicant paid the filing fee and surcharge and filed a substitute specification.[2] Applicant also filed a petition under 37 CFR 1.47(a) to have joint inventor David Kim make

---

[1] While it is permissible to file an oath or declaration from the parent application in a continuation or divisional application, a newly executed oath or declaration must be filed in a continuation-in-part application. See 37 CFR 1.63(d).

[2] Made timely because March 16, 2003 fell on a Sunday. See 37 CFR 1.7(a).

the application for patent on behalf of himself and nonsigning inventor Eyal Goldwerger. Accompanying the petition was a declaration executed by Kidd, but with the signature block for Goldwerger left blank.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventors.

On petition, attorney Ralph P. Albrecht has attested that Goldwerger could not be reached. According to Albrecht, he tried to contact Goldwerger at two listed phone numbers, but both numbers were no longer in service. In addition, Albrecht forwarded a letter including a copy of the declaration via certified mail, return receipt requested, on March 5, 2003. However, Albrecht stated that no response has been received. While no copies of documentary evidence, such as internet searches, certified mail return receipts, cover letters of instructions, returned mail, etc. were included with the petition, in this instance it is concluded that Rule 47 applicant has established that Goldwerger could not be reached.[3]

However, Rule 47 applicant has not submitted a declaration in compliance with 37 CFR 1.63. The declaration does not identify the mailing address of signing inventor Kidd.[4]

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, Virginia

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

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[3] See MPEP 409.03(d). Here, an Office examination of the certified mail tracking number (7001 2510 0002 3224 1404) on the USPS website reveals that the March 5, 2003 letter to Goldwerger was returned as undeliverable on March 10, 2003.

[4] See 37 CFR 1.63(c)(1).

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ALEXANDRIA, VA 22313-1450
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Paper No. 9

VENABLE BAETJER HOWARD AND CIVILETTI LLP
PO BOX 34385
WASHINGTON DC 20043-9998

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AUG 06 2003
OFFICE OF PETITIONS

In re Application of Goldwerger, et al. Application No. 10/305,373 Filed: November 27, 2002 Attorney Docket No. 30485-181799	: : : : :	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed July 29, 2003.

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

The above-identified application was filed on November 27, 2002, as a continuation-in-part of parent application no. 09/665,291, using the declaration from the parent application.[1] On January 16, 2003, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring the statutory basic filing fee together with the surcharge for its late filing, and a substitute specification. This Notice set a two-month period for reply.

In reply, on March 17, 2003, applicant paid the filing fee and surcharge and filed a substitute specification.[2] Applicant also filed a petition under 37 CFR 1.47(a) to have joint inventor David Kim make the application for patent on behalf of nonsigning inventor Eyal Goldwerger. Accompanying the petition was a declaration executed by Kidd, but with the signature block for Goldwerger left blank.

---

[1] While it is permissible to file an oath or declaration from the parent application in a continuation or divisional application, a newly executed oath or declaration must be filed in a continuation-in-part application. See 37 CFR 1.63(d).

[2] Made timely because March 16, 2003 fell on a Sunday. See 37 CFR 1.7(a).

However, the petition was dismissed in a decision mailed on May 30, 2003. Rule 47 applicant failed to submit a declaration in compliance with 37 CFR 1.63. The declaration did not identify the mailing address of signing inventor Kidd.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventors.

On renewed petition, Rule 47 applicant has included a declaration in compliance with 37 CFR 1.63. As Rule 47 applicant previously satisfied the other requirements for a grantable petition with the petition filed on March 17, 2003, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known 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 pre-examination processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAR 2 0 2009

OFFICE OF PETITIONS

RICHARD M GOLDBERG
25 EAST SALEM STREET
SUITE 419
HACKENSACK NJ 07601

In re Patent No. 6,915,569	:	
Issue Date: July 12, 2005	:	
Application No. 10/305,414	:	NOTICE
Filed: November 26, 2002	:	
Attorney Docket No. 234/1/039	:	

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

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

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

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

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

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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MILLEN WHITE ZELANO & BRANIGAN, P.C.
2200 CLARENDON BOULEVARD, SUITE 1400
ARLINGTON, VA 22201

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OFFICE OF PETITIONS

In re Application of :
Rolf Bohlmann et al :
Application No. 10/305,418 :
Filed: November 27, 2002 :
Attorney Docket No. SCH-1935

ON PETITION

This is a decision on the petition, filed August 31, 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 29, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1617 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

MICHAEL BEST & FRIEDRICH LLP
TWO PRUDENTIAL PLAZA
180 NORTH STETSON AVENUE, SUITE 2000
CHICAGO, IL 60601

In re Application of
Gregory S. Basarab, et al.
Application No. 10/305,427
Filed: November 25, 2002
Attorney Docket No. 013961-9018US00

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed November 9, 2006.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before December 22, 2005. A Notice of Abandonment was mailed on June 13, 2006. In response, on November 9, 2006, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the requisite issue/publication fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Publications to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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SEP 04 2003

OFFICE OF PETITIONS

BOLESH J. SKUTNIK, PhD, JD
515 SHAKER ROAD
EAST LONGMEADOW, MA 01028

In re Application of:	
Pawlowski et al.	
Application No. 10/305,453	
Filed: November 26, 2002	DECISION GRANTING
Title of Invention: SYSTEM AND METHOD	STATUS UNDER
FOR ACCURATE OPTICAL TREATMENT OF AN	37 CFR 1.47
EYES FUNDUS	

This Decision is in response to a Petition Under 37 C.F.R. 1.47(a), filed June 12, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Dirk Pawlowski, refuses to join in the application.

As provided in Rule 1.47(a), 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.

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

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

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RADER FISHMAN & GARAUER PLLC
10653 SOUTH RIVER FRONT PARKWAY
SUITE 150
SOUTH JORDAN, UT 84095

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APR 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Lanny R. Smith :
Application No. 10/305,467 :
Filed: November 26, 2002 :
Attorney Docket No. Coverstar 3

ON PETITION

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 non-final Office action mailed August 18, 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 on September 19, 2003.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

This application file is being forwarded to Technology Center AU 3751 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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P.O. Box 1450
Alexandria, VA 22313-1450
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FEB 23 2005

In re Application of
Eric T. Easterbrook *et al*
Application No. 10/305,469
Filed: November 25, 2002
Attorney Docket No. SI11-2822-U

: DECISION ON PETITION

This is a decision on the petition filed by facsimile transmission on December 7, 2004 by which petitioners request that the period for filing a reply to the Office action dated September 30, 2004 be reset, and that any petition fees paid be refunded. The petition is being considered under 37 CFR 1.181, and no fee is required for the petition. Office records do not show that a petition fee was charged. Should a fee subsequently be charged for this petition, a refund may be requested.

The petition is granted.

It appears that petitioners have requested that the period for filing a reply to the Office letter in question be reset to run from the date of the postmark on the envelope in which the Office letter was received. MPEP § 710.06 provides that if certain criteria are met, the period for filing a reply to an outstanding Office action may be reset to run from the postmark date shown on the Office mailing envelope in which the Office action was received.

Petitioners' submission establishes that the petition for relief was filed within two weeks of the date of receipt of the Office action in question, that the Office action set a one month period for filing a reply thereto, and that the Office action was postmarked on November 29, 2004, much later than the September 30, 2004 mailing date indicated on the Office action. Petitioners have satisfied the necessary criteria for the relief requested.

Accordingly, the application will be forwarded to the Head Supervisory Applications Examiner so that the period for filing a reply to the Office action dated September 30, 2004 will be reset to run from November 29, 2004. Any reply to the Office action file after December 29, 2004 will, perforce, require an appropriate extension of time under 37 CFR 1.136(a).

PETITION GRANTED.

Richard A Bertsch

E. R. Kazenske, Director
Technology Center 3700

R. Reams Goodloe, Jr & R. Reams Goodloe, P.S.
24722 104TH Avenue, S.E.
Suite 102
Kent, WA 98030-5322

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FEB 23 2005

OIPE JC71
FEB 28 2005
PATENT & TRADEMARK

In re Application of
Eric T. Easterbrook *et al*
Application No. 10/305,469
Filed: November 25, 2002
Attorney Docket No. SI11-2822-U

: DECISION ON PETITION

This is a decision on the petition filed by facsimile transmission on December 7, 2004 by which petitioners request that the period for filing a reply to the Office action dated September 30, 2004 be reset, and that any petition fees paid be refunded. The petition is being considered under 37 CFR 1.181, and no fee is required for the petition. Office records do not show that a petition fee was charged. Should a fee subsequently be charged for this petition, a refund may be requested.

The petition is granted.

It appears that petitioners have requested that the period for filing a reply to the Office letter in question be reset to run from the date of the postmark on the envelope in which the Office letter was received. MPEP § 710.06 provides that if certain criteria are met, the period for filing a reply to an outstanding Office action may be reset to run from the postmark date shown on the Office mailing envelope in which the Office action was received.

Petitioners' submission establishes that the petition for relief was filed within two weeks of the date of receipt of the Office action in question, that the Office action set a one month period for filing a reply thereto, and that the Office action was postmarked on November 29, 2004, much later than the September 30, 2004 mailing date indicated on the Office action. Petitioners have satisfied the necessary criteria for the relief requested.

Accordingly, the application will be forwarded to the Head Supervisory Applications Examiner so that the period for filing a reply to the Office action dated September 30, 2004 will be reset to run from November 29, 2004. Any reply to the Office action file after December 29, 2004 will, perforce, require an appropriate extension of time under 37 CFR 1.136(a).

PETITION GRANTED.

Richard A Bertsch

E. R. Kazenske, Director
Technology Center 3700

R. Reams Goodloe, Jr & R. Reams Goodloe, P.S.
24722 104TH Avenue, S.E.
Suite 102
Kent, WA 98030-5322

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R. REAMS GOODLOE, P.S.
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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

Dean A. Craine, P.S.
Suite 140
400- 112th Ave. NE
Bellevue WA 98004

MAILED

NOV 16 2009

OFFICE OF PETITIONS

In re Patent No. 6,924,605	:	
Issue Date: August 2, 2005	:	
Application No. 10/305,492	:	ON PETITION
Filed: November 27, 2002	:	
Attorney Docket No. CHUJ 107	:	

This is a decision on the petition under 37 CFR 1.378(c), filed September 15, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 3, 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.

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. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

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

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

The patent file is being forwarded to Files Repository.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Dean A. Craine**
9 Lake Bellevue Drive, Suite 208
Bellevue, WA 98005

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DIVISION
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SEP 1 5 2009
2009 SEP 16 PM 4:24
PAGE 1/4 * RCVD AT 9/15/2009 10:32:29 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/1 * DNIS:2738300 * CSID: * DURATION (mm-ss):02-26

IFW

PTO/SB/66 (03-09)
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378 (c))

Docket Number (Optional)
CHUJ 107

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OFFICE OF PETITIONS

Mail to: 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.

Patent No. 6,924,605 Application Number 10305492

Issue Date August 2, 2005 Filing Date 11/27/2002

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue 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).

Also complete the following information, if applicable

09/17/2009 DALLEN 00000040 6924605
01 FC:1599 2130.00 OP

The above – identified patent

☐ Is a reissue of original Patent No. _____ original issue date _____

original application number _____

original filing date _____

☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application _____

filed on _____

CERTIFICATE OF MAILING (37 CFR 1.89(a))

I hereby certify that this paper (*along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class main in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

09/14/2009
Date

Dean A. Craine
Signature

Dean A. Craine
Typed or Printed Name of Person Signing Certificate

Adjustment date: 11/17/2009 LDIEP1
09/17/2009 DALLEN 00000040 6924605
01 FC:1599 -2130.00 OP

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, Virginia 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, Virginia 22313-1450

11/17/2009 LDIEP1 00000083 6924605
01 FC:1551 490.00 OP
02 FC:1558 1640.00 OP

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

Sep. 15. 2009 7:31AM No. 2000 P. 1/4

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PAGE 2/4 * RCVD AT 9/15/2009 10:32:29 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/1 * DNIS:2738300 * CSID: * DURATION (mm-ss):02-26

PTO/SB/66 (03-09)
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1. SMALL ENTITY

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

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2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
☐ $ _____	3 ½ yr fee	(1551)	☑ $ 490.00	3 ½ yr fee	(2551)
☐ $ _____	7 ½ yr fee	(1552)	☐ $ _____	7 ½ yr fee	(2552)
☐ $ _____	11 ½ yr fee	(1553)	☐ $ _____	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED $ 490.00

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) of $ 65.00 (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of a maintenance fee.

SURCHARGE FEE BEING SUBMITTED $ 555.00

5. MANNER OF PAYMENT

☐ Enclosed is a check for the sum of $ _____

☐ Please charge Deposit Account No. _____ the sum of $ _____

☑ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☐ The Director is hereby authorized to charge any maintenance fee, surcharge or petition deficiency to Deposit Account No. _____

Sep. 15. 2009 7:32AM No. 2000 P. 2/4

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SEP 1 5 2009

PAGE 3/4 * RCVD AT 9/15/2009 10:32:29 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/1 * DNIS:2738300 * CSID: * DURATION (mm-ss):02-26

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7. OVERPAYMENT

As to any overpayment made please

☐ Credit to Deposit Account No. _____.

OR

☐ Send refund check

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SEP 1 8 2009
OFFICE OF PETITIONS

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..

8. STATEMENT

The delay in payment of the maintenance fee to this patent was unintentional.

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

Dean A. Craine — Signature(s) of Petitioner(s)

9-14-09 — Date

Dean A. Craine — Typed or printed name(s)

33,591 — Registration Number, if applicable

425.637.3035 — Telephone Number

9 Lake Bellevue Drive, Suite 208 — Address

Bellevue, WA 98005 — Address

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."

ENCLOSURES

☑ Maintenance Fee Payment

☑ Surcharge under 37 CFR 1.20(i)(2) (fee for filing the maintenance fee petition)

☑ petition fee

Sep. 15. 2009 7:33AM No. 2000 P. 3/4

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,764,054	2004-07-20	10/305,495	2002-11-26	200-55

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	/ Gregory M. Lefkowitz /	Date (YYYY-MM-DD)	2009-08-06
Name	Gregory M. Lefkowitz	Registration Number	56216

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6764054
Issue Date: July 20,2004
Application No. 10305495
Filed: November 26,2002
Attorney Docket No. 200-55

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

This is a decision on the electronic petition, filed August 6,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 6,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OCT 09 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

The Law Office of Craige W. Barber
PO Box 16220
Golden CO 80402-6004

Paper No. 4

In re application of
Demetrius Calvin Ham
Application No.10/305,522
Filed: November 26, 2002
For: VERTICAL DOOR CONVERSION KIT

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed August 29, 2003 to make the above-identified application special.

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

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

The petition filed August 20, 2003 includes all of the requirements above and, therefore, the petition is **GRANTED**.

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

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

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

KJD/ekn 10/1/03

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

Mark R. Wisner
Wisner & Associates
1177 West Loop Associates
Suite 400
Houston TX 77027-9012

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OFFICE OF PETITIONS

In re Application of :
Holcomb, et al. :
Application No. 10/305,524 : ON PETITION
Filed: November 26, 2002 :
Attorney Docket No. MET,002 :
For: METHODS AND APPARATUS FOR PRODUCTION OF HYDROCARBONS

This is a decision on the petition under 37 CFR 1.137(b), filed on April 27, 2006 (certificate of mailing date April 20, 2006) to revive the above-identified application.

This application became abandoned for failure to timely respond to the final Office action mailed October 20, 2004, which set an extendable three month period for reply. No extension of time or reply being received, this application became abandoned on January 21, 2005. A Notice of Abandonment was mailed on June 7, 2005.

Applicants have submitted a RCE and required fee and amendment in reply to the October 20, 2004 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the October 20, 2004 final Office action, and the petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 3672 for consideration of the RCE and amendment filed on April 27, 2006 (certificate of mailing date April 20, 2006).

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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INTERNATIONAL PAPER COMPANY
6285 TRI-RIDGE BOULEVARD
LOVELAND OH 45140

In re Application of	:	
Scott Paul Andersen et al	:	
Application No. 10/305,525	:	ON PETITION
Filed: November 26, 2002	:	
Attorney Docket No. 784530190003	:	

This is a decision on the petition, filed June 22, 2006, and supplemented on June 23, 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 10, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3651 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 : June 23, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Scott Paul Andersen et al
Application No. :10/305,525
Filed :November 26, 2002

The above-identified application has been assigned Patent No. 7,069,110 and an issue date of June 27, 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 27, 2006:

"All reference to Patent No. 7,069,110 to Scott Paul Andersen et al of Ohio for SYSTEM AND METHOD FOR TRACKING INVENTORY appearing in the Official Gazette of June 27, 2006 should be deleted since no patent was granted."

Karen Creasy

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

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

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ALEXANDRIA, VA 22313-1450
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THE LUBRIZOL CORPORATION
ATTN: DOCKET CLERK, PATENT DEPT.
29400 LAKELAND BLVD.
WICKLIFFE OH 44092

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APR 21 2004

OFFICE OF PETITIONS

In re Application of
Carrick, et al.
Application No. 10/305,526
Filed: November 25, 2002
Attorney Docket No.: 3178R
For: ADDITIVE FORMULATION FOR LUBRICATING OILS

DECISION DISMISSING PETITION

This is a decision on the petition filed March 8, 2004 (certificate of mailing date March 3, 2004), requesting that the above-identified application be accorded a filing date of November 26, 2002.

Petitioners allege that the application was deposited in Express Mail service on November 26, 2002.

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See §1.6(a).

(Emphasis supplied). Paragraph (d) of 37 CFR 1.10 states that:

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

corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day." In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS."

The petition filed March 8, 2004 (certificate of mailing date March 3, 2004) , does not include a showing that the application was deposited in "Express Mail Post Office to Addressee" service on November 26, 2002 and the corroborating evidence required by the rule. The date-in on the label in question is clearly 11/25/02. Petitioners have provided no evidence to show the USPS date-in is incorrect.

Accordingly, the petition to accord a November 26, 2002 filing date to the above-identified application is **DISMISSED**.

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

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

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

The application is being returned to Technology Center 1700 for examination in due course. The filing date of the application remains November 25, 2002.

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Callaway Golf Company
2180 Rutherford Road
Carlsbad CA 92008-7328

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OFFICE OF PETITIONS

In re Application of	:	
Tzivanis et al.	:	
Application No. 10/305,531	:	ON PETITION
Filed: November 27, 2002	:	
Attorney Docket No. P610802	:	

This is a decision on the petition under 37 CFR 1.137(a), filed February 10, 2006, to revive the above-identified application.

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

On July 22, 2005, the Office mailed a Corrected Notice of Allowance and Fee(s) Due, which indicated the due date for payment of the issue fee and the publication fee as August 29, 2005. In the absence of the timely payment of the issue fee and publication fee, the application became abandoned on August 30, 2005. On January 18, 2006, petitioners paid the required issue fee and publication fee, and submitted a completed Fee(s) Transmittal (From PTOL 85). On February 3, 2006, the Office mailed a Notice of Abandonment.

Petitioners asserted that they received the Corrected Notice of Allowance and Fee(s) Due ("Corrected Notice"), mailed on July 22, 2005; however, the Issue Fee Transmittal form was missing. Petitioners stated that the attorney of record contacted the examiner and requested that he send the missing form to the correspondence address. Petitioners indicated that the form was never received and an edited form from another case was sent to the USPTO on January 18, 2006. Petitioners explained that they always intended to pay the issue fee; however, due to circumstances outside of their control, the issue fee was not paid timely.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, 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 § 114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. 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 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 unavoidable; and,
>
> (4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

This petition lacks item (3) above.

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director 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]

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).[3] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding

---

[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 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] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

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.[4]

In the present case, petitioners did not take appropriate action to ensure that the issue fee and publication fee were paid in a timely manner so as to prevent the application from becoming abandoned. It is regrettable that petitioners did not receive an Issue Fee Transmittal form; however, petitioners acknowledged receipt of the Corrected Notice. The Corrected Notice clearly indicated that the payment of a $1,400.00 issue fee and a $300.00 publication fee were due on August 29, 2005, to avoid abandonment of the application. Therefore, petitioners received reasonable notice of the amounts of the issue fee and the publication fee and the due date for payment so as to ensure a timely and adequate response to the Corrected Notice. Accordingly, non-receipt of the Issue Fee Transmittal form did not affect petitioners' ability to pay the issue fee and the publication fee in a timely manner.

Moreover, the Office notes that petitioners could have downloaded a blank Issue Fee Transmittal form from the USPTO's website at any time after they discovered they did not receive the form. The Office further notes that petitioners submitted the issue fee, the publication fee and an edited Issue Fee Transmittal form from another case to the USPTO on January 18, 2006. Yet, petitioners failed to explain why they were prevented from taking such action prior to the due date of August 29, 2005.

Petitioners are ultimately responsible for timely and adequately responding to the Corrected Notice. An applicant may delay action until the end of the time period for reply. In doing so, the applicant must assume the risk attendant to such delay.[5] Furthermore, a delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay.[6]

The application became abandoned due to petitioners' failure to timely pay the issue fee and publication fee and not by non-receipt of the Issue Fee Transmittal form.

CONCLUSION

Petitioners have not provided a sufficient showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

---

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

[5] Ex parte Warren, 1901 Dec. Comm'r Pat. 137 (Comm'r Pat. 1901).

[6] See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891). 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: (1) the applicant's reliance upon oral advice from Office employees; or (2) the Office's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. 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).

Accordingly, 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. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." Extensions of time are permitted under 37 CFR 1.136(a).

ALTERNATIVE VENUE

While the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable, petitioners are not precluded from seeking relief by filing a petition under 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in 1.20(d)) required pursuant to 37 CFR 1.137(d).

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

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

Callaway Golf Company
2180 Rutherford Road
Carlsbad CA 92008-7328

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OFFICE OF PETITIONS

In re Application of :
Tzivanis et al. :
Application No. 10/305,531 : ON PETITION
Filed: November 27, 2002 :
Attorney Docket No. P610802 :

This is a decision on the renewed petition filed on March 15, 2006, to revive the above-identified application.

On July 22, 2005, the Office mailed a Corrected Notice of Allowance and Fee(s) Due, which indicated the due date for payment of the issue fee and the publication fee as August 29, 2005. In the absence of the timely payment of the issue fee and publication fee, the application became abandoned on August 30, 2005. On January 18, 2006, petitioners paid the required issue fee and publication fee, and submitted a completed Fee(s) Transmittal (From PTOL 85). On February 3, 2006, the Office mailed a Notice of Abandonment.

On February 10, 2006, petitioner filed a petition under 37 CFR 1.137(a) to revive the application, which was dismissed by the decision of March 8, 2006. On March 15, 2006, petitioner filed the present renewed petition.

Petitioner has met the requirements to revive the above-identified application. Accordingly, the petition is **granted**.

The Office finance records indicate that the USPTO mistakenly charged petitioner's deposit account twice for the $1,400.00 issue fee and the $300.00 publication fee. Therefore, the Office will credit the duplicate charge, totaling $1,700.00, to the Deposit Account.

This matter is being referred to the Office of Patent Publication.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Paper No. 5

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JUL 2 2 2003

OFFICE OF PETITIONS

Corporate Patent Counsel
U.S. Philips Corporation
580 White Plains Road
Tarrytown, NY 10591

In re Application of
Graham G. Thomason
Application No.10/305,553
Filed: November 27, 2002
Attorney Docket No. GB 010198

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10 (c) filed on April 24, 2003, requesting that the above-identified application be accorded a filing date of November 27, 2002, rather than the presently accorded filing date of November 26, 2002.

Petitioner alleges that the application was deposited in Express Mail service on November 27, 2002. In support, petitioner has supplied a copy of Express Mail receipt No. EV031698600US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file) showing a United States Postal Service "date-in" of November 27, 2002.

In view of the above, the petition is granted. No petition fee is required.

The application is being forwarded to Office of Initial Patent Examination for correction of the filing date to **November 27, 2002** and issuance of a corrected Filing Receipt.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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LERNER DAVID LITTENBERG
KRUMHOLZ & MENTLIK LLP
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

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NOV 24 2003

OFFICE OF PETITIONS

In re Application of
Odd N. Oddsen Jr.
Application No. 10/305,568
Filed: November 27, 2002
Attorney Docket No. INNOFF 3.0-005 CONT DIV I

ON PETITION

This is a decision on the petition, filed November 20, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 13, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 3632 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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

LDLK&M

NOV 26 2003

RECEIVED

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

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Paper No. 7

RYAN, MASON & LEWIS, LLP
90 FOREST AVENUE
LOCUST VALLEY, NY 11560

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MAY 27 2003

OFFICE OF PETITIONS

In re Application of
Aytur et al.
Application No. 10/305,584
Filed: November 27, 2002
Attorney Docket No. 2-8

ON PETITION

This decision concerns the April 10, 2003 (Certificate of Express Mailing date) petition under 37 CFR 1.47(a).

The petition is **DISMISSED.**

Two inventors are named in this application: Turgut Sefket Aytur ("Aytur") and Nathan R. Belk ("Belk"): The application was filed without an oath or declaration. In response to a January 14, 2003 Notice to File Missing Parts of Nonprovisional Application, the petition was filed, accompanied by a "Declaration and Power of Attorney" signed by only Aytur ("4/10/03 Declaration"), and a request for a 1-month extension of time and the requisite extension-of-time fee.

The petition alleges that Belk cannot be reached.[1] That being the case, Aytur may file the application on behalf of himself as well as Belk, provided that the petition includes Belk's last known address; and a statement of facts, signed by a person with firsthand knowledge of the facts cited, establishing that a **diligent effort** had been made to locate Belk, and that notwithstanding such an effort, Belk could not be found.[2]

The petition encloses a statement of facts by Joseph B. Ryan ("Ryan") ("Ryan Statement"), counsel for Assignee. According to the petition and the Ryan Statement:

(1) The copy of application mailed by Ryan on March 7, 2003 to Belk at the latter's last known address was returned to Ryan in late March 2003 since Belk no longer resided at that address.

(2) Ryan could not locate Belk after "diligent effort" to search for Belk's new address on the Internet.[3]

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1 Petition, page 1, 1st paragraph, 2nd sentence.

2 37 CFR 1.47(a); MPEP section 409.03(d) INVENTOR CANNOT BE REACHED (Rev. 1, Feb. 2003).

3 Ryan Statement, page 2, paragraph 8.

The Office notes that:

(1) The petition has not supplied any evidence of the alleged Internet search for Belk.

(2) Through www.Lexis.com (Person Locator), the Office was able to find 3 persons with the name "Nathan R. Belk" associated with various partial social security numbers, with one of them residing in New Jersey at an address different from that provided in this petition.

The Office thus concludes that a reasonably diligent effort had not been made to locate Belk before it was concluded that he could not be found. The petition is thus dismissed. The 4/21/03 Declaration is not accepted.

To prevent abandonment of this application,[4] one of the following must be submitted within **TWO MONTHS** of the mailing date of this decision:[5]

(1) an oath/declaration properly signed by both Aytur and Belk;[6]

or

(2) a renewed §1.47(a) petition (no fee) that includes proper statement(s) of **facts** relied upon to establish that a **diligent effort** had been made, in vain, to locate Belk.[7]

The renewed §1.47(a) petition should be addressed as follows:

by mail/by hand: Commissioner for Patents, USPTO
Office of Petitions
Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

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

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[4] See 37 CFR 1.53(f) (If an application which has been accorded a filing date . . . does not include an oath or declaration . . . pursuant to §1.63 . . . , applicant will be notified and given a period of time within which to . . . file an oath or declaration . . . to avoid abandonment).

[5] Unless proper extension(s) of time under 37 CFR 1.136(a) is (are) obtained.

[6] **Aytur should re-execute a substitute declaration since the 4/21/03 Declaration contains an altered mailing address that was initialed but not dated.** See MPEP section 602.01 (Rev.1, Feb. 2003).

[7] The steps taken to locate the whereabouts of Belk should be included in the statement of facts, signed by the person with firsthand knowledge of the facts recited therein. MPEP section 409.03(d) INVENTOR CANNOT BE REACHED (Rev. 1, Feb. 2003).

Finally, the Office acknowledges receipt with the petition of the $130 petition fee and the $130 surcharge for failure to submit an acceptable oath/declaration upon filing of the application.

Also, the assignment document enclosed with the petition has been forwarded to the Assignment Branch for recordation.[8]

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

RC Tang
Petitions Attorney
Office of Petitions

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[8] Recordation of this document in the USPTO is not a determination by the USPTO of the validity of the document or its effect on the title to this patent application. 37 CFR 3.54.

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Paper No. 9

RYAN, MASON & LEWIS, LLP
90 FOREST AVENUE
LOCUST VALLEY, NY 11560

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SEP 15 2003

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Aytur et al. :
Application No. 10/305,584 :
Filed: November 27, 2002 :
Attorney Docket No. 2-8 :

This decision concerns the September 9, 2003 renewed petition under 37 CFR 1.47(a).

The renewed petition is **DISMISSED.**

The previous petition under 37 CFR 1.47(a), filed on April 10, 2003, asserted that the non-signing inventor Nathan R. Belk could not be located/reached. Apparently, correspondence sent by counsel to Nathan R. Belk at "92 Spruce Mill Lane, Scotch Plains, NJ 07076" was returned unopened, suggesting that Nathan R. Belk may have relocated and no longer resides or receives mail at that address.

The Office was able to locate, via www.lexis.com, 3 addresses listed under the name "Nathan R. Belk" that were different from the Scotch Plains, NJ address indicated in the April 10, 2003 petition. The petition was thus dismissed on May 27, 2003 for failing to show that a diligent effort had been made to locate Nathan R. Belk. Subsequently, upon request, the Office mailed counsel a copy of the Office's search result. Of note is that the Lexis website printout indicates 2 different sets of partial Social Security Numbers associated with "Nathan R. Belk."

Under 37 CFR 1.47(a), a statement of Nathan R. Belk's last known address is required such that the USPTO may notify him of the filing of the instant application pursuant to 37 CFR 1.47.[1] However, despite the facts recited above, the instant renewed petition again indicates Nathan R. Belk's last known address as that provided in the April 10, 2003 petition, i.e., the address in Scotch Plains, NJ. An inquiry with Nathan R. Belk's former employer would have aided in determining which of the addresses retrieved from www.lexis.com belongs to the correct Nathan R. Belk, and, whether that address nevertheless predates the Scotch Plains, NJ address, rendering the latter the true "last known address."

Evidently, an address known to counsel to be obsolete cannot be the "last known address" contemplated in 37 CFR 1.47 if information available to counsel points to other possible addresses. The petition is thus dismissed.

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[1] MPEP 409.03(e) (Rev. 1, Feb. 2003).

To prevent abandonment of this application,[2] one of the following must be submitted within **TWO MONTHS** of the mailing date of this decision:[3]

(1) A supplemental declaration referring to the claimed invention and/or the application, listing the entire inventive entity, and signed by Nathan R. Belk;

or

(2) A renewed §1.47(a) petition (no fee) that points out Nathan R. Belk's last known address as discussed above.

The renewed §1.47(a) petition should be addressed as follows:

by mail/by hand:	Commissioner for Patents, USPTO Office of Petitions Crystal Plaza Four, Suite CP4-3C23 2201 South Clark Place Arlington, VA 22202
by fax:	(703) 308-6916 Attn: Office of Petitions

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

RC Tang
Petitions Attorney
Office of Petitions

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[2] See 37 CFR 1.53(f).

[3] The reply period is extendable under 37 CFR 1.136(a).

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Paper No. 11

RYAN, MASON & LEWIS, LLP
90 FOREST AVENUE
LOCUST VALLEY, NY 11560

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DEC 1 9 2003

OFFICE OF PETITIONS

In re Application of	:	
Aytur et al.	:	DECISION ACCORDING
Application No. 10/305,584	:	STATUS UNDER
Filed: November 27, 2002	:	37 CFR 1.47(a)
Attorney Docket No. 2-8	:	

This decision concerns the November 26, 2003 second renewed petition under 37 CFR 1.47(a).

The renewed petition is **GRANTED.**

The "Declaration and Power of Attorney" filed on April 10, 2003 lacks the signature of one of the named inventors, Nathan R. Belk. The available inventor asserts that Nathan R. Belk cannot be located/reached, and wishes to file this application on behalf of himself as well as Nathan R. Belk.

Upon review of the instant renewed petition and the accompaniments, the Office concludes that a reasonably diligent effort had been made, in vain, to reach Nathan R. Belk. The renewed petition is thus granted.

As provided in 37 CFR 1.47(c), the Office will forward notice of the filing of this application to Nathan R. Belk at his last known address indicated in the renewed petition:

200 East Estella Lane
Lucas, TX 75002

Notice of the filing of this application will also be published in the *Official Gazette*.

No petition fee is owed.

The file is being forwarded to Technology Center 2800 for examination in due course.

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

RC Tang
Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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Paper No. 3

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

MAILED

JUN 18 2004

Technology Center 2100

In re Application of:
William E. Sobel
Application No. 10/305,622
Filed: November 27, 2002
For: ENFORCEMENT OF NETWORK SECURITY POLICIES

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

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

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

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

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

James R. Matthews

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

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

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)
6758146	2004-07-06	10305627	2002-11-27	IL-11018

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	/John H. Lee, #59,193/	Date (YYYY-MM-DD)	2010-03-10
Name	John H. Lee	Registration Number	53193

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. 6758146
Issue Date: July 6,2004
Application No. 10305627
Filed: November 27,2002
Attorney Docket No. IL-11018

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

This is a decision on the electronic petition, filed March 10,2010 ,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 March 10,2010 . 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. 7

GENENTECH, INC.
1 DNA WAY
SOUTH SAN FRANCISCO CA 94080

COPY MAILED

JUN 0 9 2003

OFFICE OF PETITIONS

In re Application of
Baker, et al.
Application No. 10/305,654
Filed: November 26, 2002
Attorney Docket No. P3235R1C1
For: COMPOSITIONS AND METHODS FOR THE DIAGNOSIS AND TREATMENT OF DISORDERS INVOLVING ANGIOGENESIS

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed April 15, 2003 (certificate of mailing date April 11, 2003).

The petition is granted.

Petitioners have shown that the non-signing inventor, Nicholas F. Paoni, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Attorney Atulya R. Agarwal establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but the inventor refused to sign the declaration and any documents related to the prosecution of Genentech, Inc. Patent applications on which he is a named inventor. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAWRENCE BERKELEY NATIONAL LABORATORY
ONE CYCLOTRON ROAD, MAIL STOP 90B
UNIVERSITY OF CALIFORNIA
BERKELEY CA 94720

COPY MAILED

AUG 2 4 2005

OFFICE OF PETITIONS

In re Application of :
David E. HUMPHRIES et al. :
Application No. 10/305,658 : ON PETITION
Filed: November 26, 2002 :
Attorney Docket No. IB-1714 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 3, 2005 and supplemented by facsimile on August 4, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed April 12, 2005, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on July 13, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

The application file is being referred to the Office of Patent Publication.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/305662

Paper No.: ____

DATE : 2/14/06

TO SPE OF : ART UNIT ~~3743~~ 3753

SUBJECT : Request for Certificate of Correction on Patent No.: 6834712 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:

Eric Frahl — SPE

3753 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

ALIX YALE & RISTAS LLP
750 MAIN STREET
SUITE 1400
HARTFORD CT 06103

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APR 26 2006

OFFICE OF PETITIONS

In re Application of :
Michael J. Rini et al. :
Application No. 10/305,677 : DECISION ON PETITION
Filed: November 26, 2002 : UNDER 37 C.F.R. §1.137(f)
Attorney Docket No. :
APIEVN/103/US :
Title: EMISSION TREATMENT :
SYSTEM :

This is a decision on the petition filed on February 8, 2006, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Petitioner states that the present nonprovisional application is the subject of an application filed in either a foreign or an

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

international application on October 27, 2003. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in either an international application or a foreign country.

Unfortunately, it does not appear that a Notice of Rescission of Nonpublication Request has been filed with the Office. As such, Petitioner has not rescinded the previous nonpublication request.

Accordingly, the petition under 37 C.F.R. §1.137(f) must be **DISMISSED.**

Any response 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 submission should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(f)."

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4].

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or

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2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.

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[5]. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay was intentional, petitioner must notify the Office.

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

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

cc: Timothy J. Olson
Alstom Power Inc.
2000 Day Hill Road
Windsor, CT 06095

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. None

ALIX YALE & RISTAS LLP
750 MAIN STREET
SUITE 1400
HARTFORD CT 06103

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JUN 21 2006

OFFICE OF PETITIONS

In re Application of :
Michael J. Rini et al. :
Application No. 10/305,677 : DECISION ON RENEWED PETITION
Filed: November 26, 2002 : UNDER 37 C.F.R. §1.137(f)
Attorney Docket No. :
APIEVN/103/US :
Title: EMISSION TREATMENT :
SYSTEM :

This is a decision on the renewed petition filed on June 6, 2006, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

Petitioner states that the present nonprovisional application is the subject of an application filed in either a foreign or an international application on October 27, 2003. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in either an international application or a foreign country.

The original petition was received on February 8, 2006, and was dismissed via the mailing of a decision on April 26, 2006, for failure to submit a Notice of Rescission of Nonpublication Request.

With the present renewed petition, the required Notice of Rescission of Nonpublication Request has been presented.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §1.22(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of a foreign application.

The petition under 37 C.F.R. §1.137(f) is **GRANTED**.

Petitioner has previously submitted the notification of a foreign filing, paid the petition fee, and has made the proper statement of unintentional delay.

The present petition has been found to be in compliance with 37 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(i), filed with the original application papers, has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of September 28, 2006 accompanies this decision on petition.

Technology Center 1700 will be notified of this decision.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

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

Encl. Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ENZO BIOCHEM, INC.
527 MADISON AVENUE (9TH FLOOR)
NEW YORK NY 10022

COPY MAILED

APR 25 2008

OFFICE OF PETITIONS

In re Application of	:	
Elazar Rabbani et al	:	
Application No. 10/305,690	:	DECISION GRANTING PETITION
Filed: November 27, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. ENZ-58(D9)	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 24, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 20, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1637 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

Mail Date: 04/21/2010

Applicant	: Michael W. Alston	: DECISION ON REQUEST FOR
Patent Number	: 7668725	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/305,741	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/27/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **613** 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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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

Mail Date: 05/18/2010

Applicant : Michael W. Alston
Patent Number : 7668725
Issue Date : 02/23/2010
Application No : 10/305,741
Filed : 11/27/2002

: 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 **641** 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
www.uspto.gov

Ross T. Robinson
Jenkens & Gilchrist, A Professional Corporation
1445 Ross Avenue, Suite 3700
Dallas, TX 75202

COPY MAILED
NOV 06 2006
OFFICE OF PETITIONS

In re Patent No. 6,876,320	:	
Issue Date: April 5, 2005	:	
Application No. 10/305,788	:	NOTICE
Filed: November 26, 2002	:	
Patentee(s): Carles Puente Baliarda	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed August 24, 2006. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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 patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. Therefore, status as a small entity has been removed and all future fees paid must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 7

OPPENHEIMER WOLFF & DONNELLY LLP
45 SOUTH SEVENTH STREET, SUITE 3300
MINNEAPOLIS, MN 55402-1609

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SEP 2 2 2003

OFFICE OF PETITIONS

In re Application of :
Gregory Reid, Timothy Ringo, :
David Lane, Elizabeth Lian, :
Daniel Farrell, Craig Fenton, :
Elise Shearing, Randy Bell, :
Sevasti Wong, Anthony Lingham, and :
Audrey Forrester :
Application No. 10/305,811 :
Filed: November 27, 2002 :
Attorney Docket No. 60021-376601 :
Title: TESTING INFORMATION :
COMPREHENSION OF CONTACT CENTER :
USERS :

DECISION REFUSING STATUS
UNDER 37 CFR § 1.47(a)

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.47(a)," filed August 18, 2003.

Receipt of the power of attorney filed August 18, 2003, is acknowledged and made of record.

The petition is **DISMISSED**.

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

The above-identified application was filed on November 27, 2002, without an executed oath or declaration. Accordingly, on January 15, 2003, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring submission of an executed oath or declaration 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 of the late surcharge; and a declaration for patent application executed by joint inventors Ringo, Lane, Lian, Farrell, Fenton, Shearing, Bell, Wong, Lingham and Forrester on behalf of themselves and on behalf of non-signing inventor Reid . On petition, applicants assert that status under § 1.47(a) is proper because inventor Reid refuses to sign the declaration.

A grantable petition under 37 C.F.R. § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or found, after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirements (2) and (4).

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. On petition, patent attorney Steven Lieske states that on August 6 or 7th, 2003, in their telephone conversation, inventor Reid expressly refused to sign the declaration. Attorney Lieske's statement further details the presentation of all of the application papers to inventor Reid. The petition includes payment of the petition fee and a statement of a last known business address of non-signing inventor Reid.

As to the deficiency in meeting requirement (2), the declaration is unacceptable as it does not include the residence and/or mailing address of inventor Reid. 37 CFR § 1.63(c) provides that unless such information is supplied on an application data sheet in accordance with § 1.76, the oath or declaration must also identify ... [t]he mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor. Furthermore, the declaration submitted includes non-initialed changes to the statutorily required citizenship information for many of the inventors. Rule 47 applicants are reminded that an oath or declaration with non-initialed changes is unacceptable. See § 1.52(c).

As to the deficiency in meeting requirement (4), an application filed pursuant to 37 CFR 1.47 must state the last known address of the non-signing inventor. That address should be the last known address at which the inventor customarily receives

mail. See MPEP § 605.03. Ordinarily, the last known address will be the last known residence of the non-signing inventor. The evidence of record does not support a conclusion that inventor Reid customarily receives mail at Accenture LLP (which appears to be a division of the assignee company).

On renewed petition, a new oath or declaration properly executed by all available joint inventors on behalf of themselves and on behalf of non-signing inventor Reid, including the information required for inventor Reid; and a statement of the last known address of inventor Reid, should be supplied.

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
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
Senior 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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Paper No. 12

OPPENHEIMER WOLFF & DONNELLY, LLP (ACCENTURE)
PLAZA VII, SUITE 3300
45 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-1609

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JAN 21 2004

OFFICE OF PETITIONS

In re Application of	:
Gregory Reid, Timothy Ringo,	: DECISION NOTING JOINDER
David Lane, Elizabeth Lian,	: OF INVENTOR AND PETITION
Daniel Farrell, Craig Fenton,	: UNDER 37 C.F.R. § 1.47(a)
Elise Shearing, Randy Bell,	: DISMISSED AS MOOT
Sevasti Wong, Anthony Lingham, and	:
Audrey Forrester	:
Application No. 10/305,811	:
Filed: November 27, 2002	:
Attorney Docket No. 60021-376601	:
Title: TESTING INFORMATION	:
COMPREHENSION OF CONTACT CENTER	:
USERS	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. § 1.47(a)," filed January 8, 2004.

The petition under § 1.47(a) is **DISMISSED AS MOOT**.

The above-identified application was filed on November 27, 2002, without an executed oath or declaration. In response to the Notice to File Missing Parts of Application mailed January 15, 2003, applicants filed the initial petition under § 1.47. The petition filed August 18, 2003, was dismissed because it did not include an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; or a statement of the last known address of the non-signing inventor (Decision mailed September 22, 2003).

On instant renewed petition, made timely by an accompanying petition for a two-month extension of time (and extension fee) applicants submitted a supplemental declaration executed by previously non-signing inventor Reid. In addition, as provided for in 37 CFR § 1.67(a)(3) and § 1.76, applicants submitted an application data sheet to cure deficiencies in the declaration.

In view of the joinder of inventor Reid, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered moot. This application does not have any Rule 1.47(a)

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

The application file is being forwarded to 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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BASELL USA INC.
INTELLECTUAL PROPERTY
912 APPLETON ROAD
ELKTON MD 21921

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OCT 1 4 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Vu A. Dang et al
Application No. 10/305,816
Filed: November 27, 2002
Attorney Docket No. EL 6067 (US)

This is a decision on the petition, filed October 13, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 7, 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 1711 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. None

ALSTOM POWER INC.
INTELLECTUAL PROPERTY LAW DEPT.
P.O. BOX 500
WINDSOR CT 06095

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AUG 22 2006
OFFICE OF PETITIONS

In re Application of	:	
Michael J. Rini et al.	:	
Application No. 10/305,820	:	DECISION ON PETITION
Filed: November 26, 2002	:	UNDER 37 C.F.R. §1.137(f)
Attorney Docket No.	:	
APIEVN/104/US	:	
Title: METHOD FOR TREATING	:	
EMISSIONS	:	

This is a decision on the petition filed on February 8, 2006, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

Petitioner states that the present nonprovisional application is the subject of an application filed in either a foreign or an international application on October 27, 2003. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in either an international application or a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §1.22(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of either a foreign application or an application under a multilateral international agreement that requires publication of applications 18 months after filing.

The petition under 37 C.F.R. §1.137(f) is **GRANTED**.

Petitioner has submitted the notification of either a foreign or an international filing, paid the petition fee, and has made the proper statement of unintentional delay. Petitioner has also submitted a Rescission of Nonpublication Request.

The present petition has been found to be in compliance with 37 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(i), filed with the original application papers, has been rescinded.

It is noted that a Notice of New or Revised Projected Publication Date was mailed on June 8, 2006.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of

this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

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

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[3]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski

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

cc: Timothy J. Olson
Alstom Power Inc.
2000 Day Hill Road
Windsor, CT 06095

---

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No. 6

Michael E. Dergosits
Dergosits & Noah LLP
Suite 1450
Four Embarcadero Center
San Francisco CA 94111

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JUL 07 2003

OFFICE OF PETITIONS

In re Application of Sivaramakrishnan, et al. Application No. 10/305,827 Filed: November 26, 2002 Attorney Docket No.: 203.40 For: VAPORIZING REACTANT LIQUIDS FOR CHEMICAL VAPOR DEPOSITION FILM PROCESSING	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed June 16, 2003.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on November 26, 2003 without an executed oath or declaration. Accordingly, on January 15, 2003, a "Notice to File Missing Parts of Nonprovisional Application" (Notice) was mailed, requiring, a substitute specification, an executed oath or declaration and a surcharge for its late filing.

In response, on June 16, 2003, a petition for a three month extension of time and required fee, a declaration executed by 4 of 5 joint inventors, the surcharge, the petition fee, and the instant petition were filed. A declaration of facts of Samuel S. Lee, an attorney prosecuting the application, accompanies the petition. Mr. Lee, in his statement of facts and the accompanying exhibits, explains that non-signing joint inventor Ishikawa, through his current employer, requested that a copy of the application NOT be sent to them and that Mr. Ishikawa returned the two declarations unexecuted with no comment.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks items (2) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration contains an noninitialed, nondated alteration to Inventor Kawano's information. 37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. The Office will not consider whether noninitialed and or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. See MPEP 605.04(a). An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of Mr. Ishikawa is REQUIRED. See MPEP 409.03(a).

Fortunately, the deficiencies or inaccuracies relate to a signing inventor. Thus, pursuant to 37 CFR 1.67(a)(2), Mr. Kawano can correct his respective information on a supplemental declaration identifying the entire inventive entity but signed only by him.

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

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

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

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 9

Michael E. Dergosits
Dergosits & Noah LLP
Suite 1450
Four Embarcadero Center
San Francisco CA 94111

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AUG 04 2003

OFFICE OF PETITIONS

In re Application of Sivaramakrishnan, et al. Application No. 10/305,827 Filed: November 26, 2002 Attorney Docket No.: 203.40 For: VAPORIZING REACTANT LIQUIDS FOR CHEMICAL VAPOR DEPOSITION FILM PROCESSING	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed July 23, 2003.

The petition is granted.

Petitioners have shown that non-signing inventor Ishikawa has refused to join in the filing of the above-identified application after having been presented with the opportunity to review the application papers. Specifically, the declaration of facts of Samuel S. Lee, an attorney prosecuting the application, establishes that non-signing joint inventor Ishikawa, through his current employer, requested that a copy of the application NOT be sent to them and that Mr. Ishikawa returned the two declarations unexecuted with no comment. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Steven J. Rosen, Patent Attorney
4729 Cornell Road
Cincinnati, OH 45241

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SEP 13 2005

OFFICE OF PETITIONS

In re Application of
Turner et al.
Application No. 10/305,833
Filed: November 27, 2002
Attorney Docket No. 13DV-13727

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed July 11, 2005, to revive the above-identified application abandoned unavoidably, which is being treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment.

The application became abandoned for failure to respond timely to the final Office action, mailed on August 23, 2004, which set a three-month shortened statutory period to respond. In the apparent absence of a timely filed response, the application was held abandoned on November 24, 2004. A Notice of Abandonment was mailed on June 30, 2005.

Petitioner asserts that he timely submitted a response to the final Office action via facsimile transmission on November 23, 2004. Petitioner alleges that he made a mistake on the cover sheet and contacted the Examiner within 24 hours of transmitting the response and offered to fax it again to the Examiner directly or to the central fax number. Petitioner avers that the Examiner stated it would not be necessary because the cover sheet had his name on it and the response had the correct examiner's name and application number. Petitioner stated that because of the Examiner's assurance, he awaited a response from the USPTO such as an allowance of all of the claims. With the present petition, petitioner submitted a copy of the cover sheet, an Auto-Reply Facsimile Transmission, a copy of the response, and an authorization to charge the petition fee.

A review of the copy of the cover sheet reveals that petitioner included the following correct information: the Examiner's name and telephone number; the USPTO central fax number; the attorney's name, address, telephone number, fax number, and email address; the number of pages being transmitted (6 pages, including the cover sheet); and a certificate of transmission signed by the attorney and dated November 23, 2004. However, the cover sheet listed an incorrect application number and attorney docket number. The Auto-Reply Facsimile Transmission shows that

6 pages (including the cover sheet) were received on November 23, 2004 at 8:54:42 AM [EST]. Lastly, the copy of the response, which petitioner states was transmitted to the USPTO but was not received, correctly identified the applicants, application number, filing date, title, attorney docket number, the Group Art Unit, Examiner's name, as well as consisted of 5 pages.

37 CFR 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received by the U.S. Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate, and

(3) Includes a statement, which attests on a personal knowledge basis or to the satisfaction of the 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.

In view of the above, the required reply is considered timely filed pursuant to 37 CFR 1.8. Accordingly, the holding of abandonment is withdrawn and the petition is granted. The application will be restored to pending status. The $500.00 petition fee is unnecessary and will be refunded to counsel's Deposit Account.

This matter is being referred to Technology Center Art Unit 3745.

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

Steven J. Rosen, Patent Attorney
4729 Cornell Road
Cincinnati, OH 45241

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DEC 07 2005

OFFICE OF PETITIONS

In re Application of	:	
Turner et al.	:	
Application No. 10/305,833	:	DECISION ON PETITION
Filed: November 27, 2002	:	
Attorney Docket No. 13DV-13727	:	

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

On August 23, 2004, the Office mailed a final Office action, which set a three-month shortened statutory period to reply. In the apparent absence of a timely filed reply, the Office mailed a Notice of Abandonment on June 30, 2005. On July 11, 2005, petitioner filed a petition under 37 CFR 1.137(a) to revive the above-identified application abandoned unavoidably, which the Office treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment. In the petition, petitioner asserted that he timely submitted a response to the final Office action via facsimile transmission on November 23, 2004. On September 13, 2005, the Office mailed a decision granting the petition under 37 CFR 1.181 to withdraw the holding of abandonment.[1] The decision stated that the required reply was considered timely[2] filed pursuant to 37 CFR 1.8, and therefore, the holding of abandonment was withdrawn. The Office refunded the $500.00 petition fee to counsel's Deposit Account. By withdrawing the holding of abandonment, the Office provided the examiner the opportunity to review the reply of November 23, 2005.

After reviewing the reply, the examiner mailed an Advisory Action on October 5, 2005, in which he determined that the reply failed to place this application in condition for allowance. Accordingly, the application became abandoned for failure to file a **proper** reply to the final Office action. A Notice of Abandonment was mailed on October 6, 2005. On November 16, 2005, petitioner filed the present petition under 37 CFR 1.137(a), a RCE and an amendment, and paid the $500.00 petition fee.

[1] In the present petition under 37 CFR 1.137(a), petitioner incorrectly stated that the Office granted a petition for revival of an application for patent abandoned unavoidably by the decision of September 13, 2005. As stated above, the Office treated and granted the petition under 37 CFR 1.181 because the Office determined petitioner submitted a timely response on November 23, 2004.

[2] The Office concluded that petitioner timely filed the response to the final Office action; however, the Office did not state that the reply was proper as that was a determination for the examiner.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, 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 § 114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. 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 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 unavoidable; and
>
> (4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

This petition lacks item (3) above.

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director 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]

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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

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]

A response to a final Office action may be entered if it presents an amendment that *prima facie* places the application in condition for allowance. However, the admission or refusal to admit any amendment after final, and any related proceedings, will not operate to relieve the application from its condition subject to appeal or save the application from abandonment under 37 CFR 1.135.[7] Further, the entry of an after-final amendment is not a matter of right, and it is incumbent upon an applicant to take steps to ensure against abandonment of an application.

In the present case, the file record reveals that petitioner did not take appropriate action to ensure against abandonment of an application. As previously stated, the decision of September 13, 2005, withdrew the holding of abandonment so that the examiner could review the reply of November 23, 2004. The decision stated petitioner filed a timely response but did not make a determination as to whether petitioner filed a proper reply to the final Office action. Accordingly, the application became abandoned because petitioner did not file a **proper** reply. It is regrettable that the Office did not mail an Advisory Action until after the six month statutory period ran; however, 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.

Abandonment takes place by operation of law for failure to timely submit a proper reply to an Office action, not by the mailing of an Office communication, such an Advisory Action.[8] This rule clearly indicates that the mere filing of an amendment does not save the application from abandonment. Only the filing of a Notice of Appeal, a Request for Continued Examination accompanied by a proper submission, or a continuing application guarantees the pendency of the application, not filing an amendment after final rejection. Thus, the application became abandoned due to petitioner's failure to file a Notice of Appeal, RCE and submission, or continuing application prior to the expiration of the time period for reply to the final Office action and not because the amendment was misplaced by the Office or a delay in the mailing the Advisory Action or any other error on the part of the U.S. Patent and Trademark Office.

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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).

[7] See 37 CFR 1.116.

[8] MPEP 711.03(c). See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 299-30 (CCPA 1964); Krahn v. Comm'r, 15 USPQ2d 1823, 1824 (E.D. Va. 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1984).

CONCLUSION

Petitioner has not provided a sufficient showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

Accordingly, the petition must be **dismissed**.

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

ALTERNATIVE VENUE

While the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable, petitioner is not precluded from seeking relief by filing a petition under 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 1.17(m) (**an additional fee of $750.00 for a 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 this paragraph was unintentional; and (4) if necessary, any terminal disclaimer (and fee as set forth in 1.20(d)) required pursuant to 37 CFR 1.137(d).

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

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Steven J. Rosen, Patent Attorney
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Cincinnati, OH 45241

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JAN 17 2006

OFFICE OF PETITIONS

In re Application of
Turner et al.
Application No. 10/305,833
Filed: November 27, 2002
Attorney Docket No. 13DV-13727

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 6, 2005, to revive the above-identified application.

On August 23, 2004, the Office mailed a final Office action, which set a three-month shortened statutory period to reply. Petitioner filed a timely response to the final Office action via facsimile transmission on November 23, 2004. However, on October 5, 2005, the examiner mailed an Advisory Action, indicating that the reply failed to place the application in condition for allowance. Accordingly, the application became abandoned for failure to file a **proper** reply to the final Office action. A Notice of Abandonment was mailed on October 6, 2005. On November 16, 2005, petitioner filed a petition under 37 CFR 1.137(a), a RCE and an amendment, and paid the petition fee. The petition was dismissed by the decision of December 7, 2005. On January 6, 2005, petitioner filed the present petition and authorized the Office to charge the Deposit Account for the petition fee.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an RCE and an amendment on November 16, 2005, and made the proper statement of unintentional delay. Accordingly, the petition is **granted.**

The Office charged the Deposit Account the $750.00 petition fee, as authorized.

This matter is being referred to Technology Center Art Unit 3745.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Paper No. 10

OPPENHEIMER WOLFF & DONNELLY,
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PLAZA VII, SUITE 3300
45 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-1609

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JAN 2 0 2004

OFFICE OF PETITIONS

In re Application of:	:	
Lane et al.	:	DECISION NOTING
Application No. 10/305,835	:	JOINDER OF INVENTOR
Filed: November 27, 2002	:	
Title of Invention: CONTENT	:	
MANAGEMENT SYSTEM FOR THE	:	
TELECOMMUNICATIONS INDUSTRY	:	

This is in response to the Request for Reconsideration Petition, under 37 CFR 1.47(a), filed September 4, 2003, noting the joinder of the inventor. A two (2) month extension-of-time fee has been charged deposit account 50-1901 as authorized in the instant petition.

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

The Declaration/Power of Attorney and Application Data Sheet have been entered and made of record.

This application is being returned to the Office if Initial Patent Examination for further processing.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

OPPENHEIMER WOLFF & DONNELLY,
LLP (ACCENTURE)
PLAZA VII, SUITE 3300
45 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-1609

In re Application of:	:	
Lane et al.	:	DECISION REFUSING
Application No. 10/305,835	:	STATUS
Filed: November 27, 2002	:	UNDER 37 CFR 1.47(a)
Title of Invention: CONTENT	:	
MANAGEMENT SYSTEM FOR THE	:	
TELECOMMUNICATIONS INDUSTRY	:	

This is in response to a petition under 37 CFR 1.47(a), filed August 19, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on November 27, 2002, without an oath or declaration. This Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice") on January 15, 2003, requiring, *inter alia*, a properly signed oath or declaration and a late filing fee, oath or declaration and surcharge.

In response to the Notice, Applicant files the instant petition wherein Applicant avers that the nonsigning inventor could not be reached for signature. The petition provides, as a last known address, a business address and an e-mail address.

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

As to item (4), the last known address of the nonsigning inventor, as provided in the statement of last known address, should be the inventor's most recent home address. *See*, MPEP 605.03 ("the inventor's most recent home address must be given in order for the Office to communicate directly with the inventor as necessary").

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

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

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

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA 22202-3113

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

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Patent No. 6,771,137	:	
Issue Date: August 3, 2004	:	
Application No. 10/305,856	:	ON PETITION
Filed: November 27, 2002	:	
Attorney Docket No. WAKA 20.156	:	

This is a decision on the petition filed August 4, 2004, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

In view of this decision, petitioner may request a Certificate of Correction pursuant to the provisions of 37 CFR 1.323 upon payment of the required fee of $100 therefor.

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.

The 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

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Paper No. 7

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OFFICE OF PETITIONS

In re Application of Gregory Reid, Timothy Ringo, David Lane, Elizabeth Lian, Daniel Farrell, Craig Fenton, Elise Shearing, Randy Bell, Sevasti Wong, Anthony Lingham, Audrey Forrester, Claudia Staubitz, Kevin Adams Lesley Pickering and Paul Ritchie Application No. 10/305,858 Filed: November 27, 2002 Attorney Docket No. 060021-376701 Title: CAPTURING INSIGHT OF SUPERIOR USERS OF A CONTACT CENTER	DECISION REFUSING STATUS UNDER 37 CFR § 1.47(a)

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.47(a)," filed August 18, 2003.

Receipt of the power of attorney filed August 18, 2003, is acknowledged and made of record.

The petition is **DISMISSED**.

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

The above-identified application was filed on November 27, 2002, without an executed oath or declaration. Accordingly, on January 13, 2003, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring submission of an

executed oath or declaration 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 of the late surcharge; and five (5) declarations for patent, executed in combination, by joint inventors Ringo, Lane, Lian, Farrell, Fenton, Shearing, Bell, Wong, Lingham, Forrester, Staubitz, Adams, Pickering and Ritchie on behalf of themselves and on behalf of non-signing inventor Reid . On petition, applicants assert that status under § 1.47(a) is proper because inventor Reid refuses to join in the application.

A grantable petition under 37 C.F.R. § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or found, after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirements (2) and (4).

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. On petition, patent attorney Steven Lieske states that on August 6 or 7th, 2003, in their telephone conversation, inventor Reid expressly refused to sign the declaration. Attorney Lieske's statement further details the presentation of all of the application papers to inventor Reid. The petition includes payment of the petition fee and a statement of a last known business address of non-signing inventor Reid.

As to the deficiency in meeting requirement (2), the declaration is unacceptable as it does not include the residence and/or mailing address of inventor Reid. 37 CFR § 1.63(c) provides that unless such information is supplied on an application data sheet in accordance with § 1.76, the oath or declaration must also identify ... [t]he mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor. Furthermore, the declaration submitted includes non-initialed changes to the statutorily required citizenship information for many of the inventors. Rule 47 applicants are reminded that an oath or declaration with non-initialed changes is unacceptable. See § 1.52(c).

As to the deficiency in meeting requirement (4), an application filed pursuant to 37 CFR 1.47 must state the last known address of the non-signing inventor. That address should be the last known address at which the inventor customarily receives mail. See MPEP § 605.03. Ordinarily, the last known address will be the last known residence of the non-signing inventor. The evidence of record does not support a conclusion that inventor Reid customarily receives mail at Accenture LLP (which appears to be a division of the assignee company).

On renewed petition, a new oath or declaration properly executed by all available joint inventors on behalf of themselves and on behalf of non-signing inventor Reid, including the information required for inventor Reid; and a statement of the last known address of inventor Reid, should be supplied.

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
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
Senior Petitions Attorney
Office of Petitions

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MINNEAPOLIS MN 55402-1609

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OFFICE OF PETITIONS

In re Application of
Gregory Reid, Timothy Ringo,
David Lane, Elizabeth Lian,
Daniel Farrell, Craig Fenton,
Elise Shearing, Randy Bell,
Sevasti Wong, Anthony Lingham,
Audrey Forrester, Claudia Staubitz,
Kevin Adams Lesley Pickering and
Paul Ritchie
Application No. 10/305,858
Filed: November 27, 2002
Attorney Docket No. 060021-376701
Title: CAPTURING INSIGHT OF
SUPERIOR USERS OF A CONTACT CENTER

DECISION NOTING JOINDER
OF INVENTOR AND PETITION
UNDER 37 CFR § 1.47(a)
DISMISSED AS MOOT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. § 1.47(a)," filed January 9, 2004.

The petition under § 1.47(a) is **DISMISSED AS MOOT**.

The above-identified application was filed on November 27, 2002, without an executed oath or declaration. In response to the Notice to File Missing Parts of Application mailed January 13, 2003, applicants filed the initial petition under § 1.47. The petition filed August 18, 2003, was dismissed because it did not include an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; or a statement of the last known address of the non-signing inventor (Decision mailed September 22, 2003).

On instant renewed petition, made timely by an accompanying petition for a two-month extension of time (and extension fee) applicants submitted a supplemental declaration executed by previously non-signing inventor Reid. In addition, as provided for in 37 CFR § 1.67(a)(3) and § 1.76, applicants submitted an application data sheet to cure deficiencies in the declaration.

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

The application file is being forwarded to Technology Center 3626 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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ACCENTURE/FINNEGAN, HENDERSON,
FARABOW, GARRETT & DUNNER, LLP
901 NEW YORK AVENUE
WASHINGTON DC 20001-4413

MAILED

JUN 30 2010

OFFICE OF PETITIONS

In re Application
Gregory S. Reid et al.
Application No. 10/305,858
Filed: November 27, 2002
Attorney Docket No. **10761.1434-00**

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT-PRE GRANT filed April 15, 2010. Applicant requests that the determination of patent term adjustment be corrected from 1037 to 1348 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Kappos, No. 2009-1120 (Jan. 7, 2010).

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the patent term adjustment relating to those provisions until the patent has issued.

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

While the petition indicates that a check in the amount of $200 was included, no such check has been located. The Office therefore acknowledges the authorization to charge 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) to deposit account no. 06-0916.

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

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

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

CUSPA Technology Law Associates
11820 SW 107 Ave.
Miami, FL 33176

AUG 13 2003

In re Application of:
Christopher E. Walton
Serial No.: 10/305,859
Filed: November 27, 2002
Attorney Docket No.: TLA02,09

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed July 11, 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 Mitchell E. Alter on behalf of himself/herself.

The request is **APPROVED**.

Yi Li remains of record at this time.

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

Inquiries related to this decision should be directed to Clayton E. LaBalle at (703) 308-0519.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

SEP 2 4 2008

OFFICE OF PETITIONS

In re Application of
Leventis et al.
Application No. 10/305,886
Filed: November 27, 2002
Attorney Docket No. 306812003800

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 9, 2005.

The request is **MOOT**.

A review of the file record indicates that the power of attorney to MORRISON & FOERSTER LLP, has been revoked by the assignee of the patent application on October 24, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the correspondence address of record until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4914.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

Hart, Baxley, Daniels & Holton
59 John Street,
Fifth Floor
New York NY 10038

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MAR 1 1 2003

OFFICE OF PETITIONS

In re Application of :
Teng-Jen Yang : DECISION DISMISSING PETITION
Application No. 10/305,906 :
Filed: November 27, 2002 :
Atty Docket No. 13436B :

This is in response to the "Response to Notice of Omitted Item in a Nonprovisional Patent Application," filed January 27, 2003, in the above-identified application. This paper is being treated as a petition under § 1.182, requesting a filing date as of the later date of submission of an omitted figure.

Application papers in the above-identified application were filed on November 27, 2002. However, on January 9, 2003, the Office of Initial Patent Examination mailed applicant a "Notice of Omitted Items in a Nonprovisional Application." Applicant was thereby advised that the application had been accorded a filing date; however, figure 11 described in the specification appeared to have been omitted from the application.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

Applicant has not disputed that the figure was omitted. In fact, a review of the application transmittal reveals reference to only figures 1-10 being transmitted. Rather, on January 27, 2003, applicant filed the instant response including Figure 11 as described in the specification; a copy of the Notice mailed January 9, 2003; and payment of the petition fee. However, applicant did not supply a supplemental declaration referring to the figure.

In view thereof, the petition is **DISMISSED** without prejudice to reconsideration upon the timely filing of a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to the amendment of the application to include Figure 11.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision to be considered timely. See 37 CFR 1.181(f). The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.182."

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

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

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

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 Petitions Attorney Nancy Johnson at (703) 305-0309.

Beverly M. Flanagan
Supervisory 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. 8

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MAY 19 2003

OFFICE OF PETITIONS

Hart, Baxley, Daniels & Holton
59 John Street
Fifth Floor
New York, NY 10038

In re Application of
Teng-Jen Yang
Application No. 10/305,906
Filed: November 27, 2002
Atty Docket No. 13436B

DECISION DISMISSING PETITION

This is in response to the "Renewed Petition under 37 CFR 1.182," filed May 12, 2003, in the above-identified application. Petitioner requests a filing date as of the later date of submission of an omitted figure.

For the reasons set forth below, the petition is **DISMISSED**.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision to be considered timely. See 37 CFR 1.181(f). The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.182." Extensions of time under the provisions of § 1.136(a) are not permitted.

Application papers in the above-identified application were filed on November 27, 2002. However, on January 9, 2003, the Office of Initial Patent Examination mailed applicant a "Notice of Omitted Items in a Nonprovisional Application." Applicant was thereby advised that the application had been accorded a filing date; however, figure 11 described in the specification appeared to have been omitted from the application.

On initial petition under § 1.182, timely filed January 27, 2003, applicant submitted the omitted drawing sheet containing figure 11 and indicated acceptance of the date of such submission as the application filing date. However, the petition was dismissed without prejudice to reconsideration for failure to file a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to the amendment of the application to include Figure 11. This decision mailed March 11, 2003, set a two month period for reply.

In response, applicant timely filed the instant renewed petition. This petition included a paper entitled "supplemental declaration." However, this was not a supplemental declaration in compliance with §§ 1.63 and 1.64. It was a declaration of facts by inventor Yang, amending the patent application to include Figure 11, but also referring to a Trademark Registration. Whereas, the dismissal decision required a supplemental declaration for patent covering figure 11 (i.e., a declaration including the averments set forth in § 1.63). Petitioner's attention in this regard is directed to §§ 1.63, 1.64 and 1.67. A supplemental declaration in compliance with these provisions continues to be required.

It is further noted that this petition also states that a check in the amount of $640 to cover the petition fee for revival of the unintentionally abandoned application is enclosed. However, no check was included with the renewed petition under § 1.182. Pursuant to petitioner's authorization, the petition fee under § 1.17(m) was charged to Deposit Account No. 02-1435. However, no petition (and fee) under § 1.137 are required as this application is not abandoned. Accordingly, the petition fee is being refunded to the Deposit Account.

Upon the timely filing of an acceptable supplemental declaration, the application will be accorded a filing date of January 27, 2003, the date of filing of omitted figure 11.

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

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450[1]

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

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 Petitions Attorney Nancy Johnson at (703) 305-0309.

Christina Tartera Donnell for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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[1] Effective May 1, 2003, the United States Patent and Trademark Office has a new address for some mail. See Correspondence with the United States Patent and Trademark Office, 68 Fed. Reg. 14332 (March 25, 2003).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

Hart, Baxley, Daniels & Holton
59 John Street,
Fifth Floor
New York NY 10038

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JUN 3 0 2003

OFFICE OF PETITIONS

In re Application of
Teng-Jen Yang
Application No. 10/305,906
Filed: **January 27, 2003**
Atty Docket No. 13436B

DECISION ON PETITION

This is in response to the "Renewed Petition under 37 CFR 1.182" filed June 20, 2003, in the above-identified application.

Application papers in the above-identified application were filed on November 27, 2002. In response to the "Notice of Omitted Items in a Nonprovisional Application" mailed January 9, 2003, on January 27, 2003, applicant filed a drawing sheet containing figure 11 and the initial petition requesting amendment of the application to include figure 11. However, the petition was dismissed for failure to submit a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to the amendment of the application to include Figure 11. A renewed petition filed May 12, 2003, was dismissed because the supplemental declaration submitted was not proper.

On instant renewed petition, applicant filed the required supplemental declaration. It has been reviewed and found in compliance with 37 CFR 1.63 and 1.64.

In view thereof, the petition is **GRANTED**.

The application file is being forwarded to the Office of Initial Patent Examination for **correction of the filing date to January 27, 2003**, and processing of the application using the papers filed November 27, 2002 and the drawing sheet containing figure 11 filed January 27, 2003.

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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

Joseph R. Keating, Esq.
Christopher A. Bennett, Esq.
KEATING & BENNETT, LLP
10400 Eaton Place, Suite 312
Fairfax VA 22030

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MAR 2 1 2003

OFFICE OF PETITIONS

In re Application of Saikawa, et al. Application No. 10/305,912 Filed: November 27, 2002 Attorney Docket No. 27877.76 For: IMAGE PROCESSING UNIT, IMAGE PROCESSING METHOD AND MEDIUM, AND GAME MACHINE	DECISION DISMISSING PETITION

This is a decision on the petition entitled, " RESPONSE TO NOTICE TO FILE CORRECTED APPLICATION PAPER," filed February 5, 2003 (certificate of mailing date January 30, 2003), requesting, in effect, withdrawal of the Notice to File Corrected Application Papers (Notice), mailed January 22, 2003. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on November 27, 2002. On January 22, 2003, the Office of Initial Patent Examination mailed a Notice informing petitioners that page 4 of the specification appeared to have been omitted. In addition, petitioners required a substitute specification in compliance with 37 CFR 1.52, 1.121(b)(3) and 1.125. The Notice stated that page 3 was not incompliance with 37 CFR 1.52(a).

In response to the Notice, petitioners timely filed the present petition. Petitioners request that page 4 be accorded a filing date of November 27, 2002 on the basis that 72 pages of specification, including page 4, were received in the Patent and Trademark Office (PTO) on November 27, 2002. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing November 27, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 72 pages of specification.

The return postcard constitutes *prima facie* evidence that 72 pages of specification, including page 4, were filed on November 27, 2002. MPEP 503.

However, the undersigned could not locate a copy of original page 4 in the application file. The version of page 4 submitted as part of the substitute specification cannot be utilized because petitioners have not stated that it is a copy of what was filed on November 27, 2002. Petitioners are required to submit a copy of the page 4 that was filed on November 27, 2002 or state that the page 4 in the substitute specification is a duplicate of the page 4 that was filed on November 27, 2002.

Accordingly, the petition is <u>dismissed</u>. The petition with respect to omitted page 4 will be granted once petitioners submit an acceptable page 4. At that point, the $130.00 petition fee will be refunded.

Petitioners are informed that the substitute specification filed with the instant petition is not acceptable. Page 3 of the original specification was partially cut off when petitioners copied it. In addition, page 3 contains part of page 4 due to another copying error on petitioners' part. A copy of originally filed page 3 is enclosed.

Petitioners have not complied with 37 CFR 1.125(b)(1) and (2). Because part of page 3 was omitted upon initial filing, there could be new matter issues. This issue is for the examiner to decide. However, the fact remains that petitioners (1) have not filed a statement that the substitute specification contains no new matter and (2) have not submitted a marked up version of the substitute specification showing all the changes (including the matter being added to and the matter being deleted from) to the specification of record.

The period to submit an acceptable substitute specification continues to run from the January 23, 2003 Notice. Extensions of time under 37 CFR 1.136(a) are available.

The application will be retained in the Office of Petitions until page 4 is submitted.

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

By mail:	Commissioner for Patents Box DAC Washington, D.C. 20231
By facsimile:	(703) 308-6916 Attn: Office of Petitions
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

enclosure: copy of originally filed page 3

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

Joseph R. Keating, Esq.
Christopher A. Bennett, Esq.
KEATING & BENNETT, LLP
10400 Eaton Place, Suite 312
Fairfax VA 22030

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APR 1 6 2003

OFFICE OF PETITIONS

In re Application of Saikawa, et al. Application No. 10/305,912 Filed: November 27, 2002 Attorney Docket No. 27877.76 For: IMAGE PROCESSING UNIT, IMAGE PROCESSING METHOD AND MEDIUM, AND GAME MACHINE	DECISION GRANTING PETITION

This is a decision on the petition entitled, " RESPONSE TO NOTICE TO FILE CORRECTED APPLICATION PAPERS," filed April 10, 2003 by facsimile,, requesting, in effect, withdrawal of the Notice to File Corrected Application Papers (Notice), mailed January 22, 2003, insofar as it alleges that page 4 of the specification was omitted upon initial filing. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on November 27, 2002. On January 22, 2003, the Office of Initial Patent Examination mailed a Notice informing petitioners that page 4 of the specification appeared to have been omitted. In addition, petitioners required a substitute specification in compliance with 37 CFR 1.52, 1.121(b)(3) and 1.125. The Notice stated that page 3 was not incompliance with 37 CFR 1.52(a).

In response to the Notice, petitioners timely filed the present petition. Petitioners request that page 4 be accorded a filing date of November 27, 2002 on the basis that 72 pages of specification, including page 4, were received in the Patent and Trademark Office (PTO) on November 27, 2002. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing November 27, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 72 pages of specification.

The return postcard constitutes *prima facie* evidence that 72 pages of specification, including page 4, were filed on November 27, 2002. MPEP 503.

Petitioners have submitted a copy of the page 4 that was filed on November 27, 2002.

Accordingly, the petition is granted. Pursuant to petitioners' authorization, the $130.00 petition fee will be refunded to petitioners' credit card.

No extension of time fees have been charged because the instant reconsideration petition was filed within 2 months of the March 21, 2003 dismissal.

Petitioners are once again reminded that the substitute specification filed on February 5, 2003

(certificate of mailing date January 30, 2003) is not acceptable. Page 3 of the original specification was partially cut off when petitioners copied it. In addition, page 3 contains part of page 4 due to another copying error on petitioners' part.

Petitioners still have not complied with 37 CFR 1.125(b)(1) and (2). Because part of page 3 was omitted upon initial filing, there could be new matter issues. This issue is for the examiner to decide. However, the fact remains that petitioners (1) have not filed a statement that the substitute specification contains no new matter and (2) have not submitted a marked up version of the substitute specification showing all the changes (including the matter being added to and the matter being deleted from) to the specification of record.

The period to submit an acceptable substitute specification continues to run from the January 23, 2003 Notice. Extensions of time under 37 CFR 1.136(a) are available.

This application is being returned to the Office of Initial Patent Examination to await receipt of an acceptable substitute specification.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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SEP 0 9 2004

OFFICE OF PETITIONS

In re Application of	:	
Shigeru Hoashi	:	
Application No. 10/305,942	:	DECISION GRANTING PETITION
Filed: November 29, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 03500.016862	:	

This is a decision on the petition, filed September 8, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 6, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 2852 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed "Submission of Replacement Drawings."

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

BORDEN LADNER GERVAIS, LLP
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA ON K1P 1J9 CA CANADA

In re Application of	:	
Redan, et. al.	:	DECISION ON REQUEST
Application No. 10/305,950	:	TO WITHDRAW FROM
Filed: November 29, 2002	:	RECORD
Attorney Docket No. PAT688-2	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 CFR § 10.40 filed on August 12, 2005.

The request is **APPROVED**.

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

The request was signed by Anne Kinsman on behalf of all the attorneys/agents associated with Customer Number 26123.

Anne Kinsman and all the attorneys/agents associated with Customer Number 26123 have been withdrawn. Therefore, applicant is reminded that there are no attorneys/agents of record at this time.

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

There is an outstanding Office action mailed May 2, 2006 that requires a reply from the applicant.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Michael C. Redan
110D Centrepointe Drive
Ottawa, Ontario K2G 6K3
CANADA

Infinity Technology Services (ITS), Inc.
100-1150 Morrison Drive
Ottawa, Ontario K2H 8S9
CANADA

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
10/305,950	11/29/2002	Michael C. Redan	PAT688-2

CONFIRMATION NO. 6963

OC000000019726231

26123
BORDEN LADNER GERVAIS LLP
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA, ON K1P 1J9
CANADA

Date Mailed: 07/24/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/12/2005.

- 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.

ANDREA M SMITH
OP (571) 272-3226

FORMER ATTORNEY/AGENT COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 25, 2006

TO SPE OF : ART UNIT 2856

SUBJECT : Request for Certificate of Correction on Patent No.: 6,837,122 /Appl.10 /305~~9997~~ 997

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.

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

Comments:

HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Hezron E. Williams

SPE

2856

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

Attention: Dean A. Ersfeld
Office of Intellectual Property Counsel
3M Innovative Properties Company
P.O. Box 33427
St. Paul MN 55133-3427

COPY MAILED

MAR 17 2003

OFFICE OF PETITIONS

In re Application of :
SKWIERCZYNSKI et al. :
Application No. 10/306,019 : DECISION GRANTING PETITION
Filed: November 27, 2002 :
Attorney Docket No. 57340US010 :

This is a decision on the petition filed February 10, 2003, requesting that the above-identified application be accorded a filing date of November 27, 2002, with page 97 of the specification as part of the original disclosure.

On November 27, 2002, applicants filed the above-identified application. On January 22, 2003, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (Notice), stating that the application had been accorded a filing date of November 27, 2002, and advising applicants that page 97 of the specification appeared to have been omitted.

In response, on February 10, 2002, applicants filed the present petition, the petition fee, and a copy of applicants' postcard receipt acknowledging receipt of 120 pages of specification, including claims and abstract. On March 17, 2003, applicants submitted a copy of page 97 of the specification by facsimile transmission.

Upon review of the record, page 97 of the specification, deposited on November 27, 2002, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on November 27, 2002, included page 97, which was subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including page 97 of the specification, was complete on filing and will be granted a filing date of November 27, 2002.

Accordingly, the petition is granted.

The Notice of Omitted Item(s), was sent in error and is hereby vacated. Accordingly, the $130.00 petition fee is unnecessary and will be credited to Deposit Account No. 13-3723.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of November 27, 2002, using page 97 of the specification submitted on petition, and the mailing of a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

OPPENHEIMER WOLFF & DONNELLY, LLP (ACCENTURE)
PLAZA VII, SUITE 3300
45 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-1609

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OCT 0 6 2003

OFFICE OF PETITIONS

In re Application of	:
Reid et al.	: DECISION REFUSING
Application No. 10/306,025	: STATUS UNDER
Filed: November 27, 2002	: 37 CFR 1.47(a)
Attorney Docket No. 060021-377101	:
For: CONTENT FEEDBACK IN A MULTIPLE-OWNER CONTENT MANAGEMENT SYSTEM	:

This is a decision on the petition under 37 CFR 1.47(a), filed August 22, 2003.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

A grantable petition under 37 CFR 1.47(a) requires

(1) proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refuses to sign after having been presented with the application papers (specification, claims, and drawings),
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

The instant petition fails to satisfy (2).

The residential address for several of the inventors does not include a city. The mailing address for several of the individuals is illegible. The declaration does not provide addresses for the non-signing inventor. Therefore, the declaration fails to comply with 37 CFR 1.63.

In order to expedite consideration, petitioner may wish to submit the renewed petition under 37 CFR 1.47 by facsimile transmission to the telephone number indicated below and to the attention of the undersigned.

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
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

OPPENHEIMER WOLFF & DONNELLY, LLP (ACCENTURE)
PLAZA VII, SUITE 3300
45 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-1609

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DEC 1 9 2003

OFFICE OF PETITIONS

In re Application of	:
Reid et al.	: DECISION NOTING JOINDER OF
Application No. 10/306,025	: INVENTION AND PETITION
Filed: November 27, 2002	: UNDER 37 CFR 1.47(a) NOW MOOT
Attorney Docket No. 060021-377101	:
For: CONTENT FEEDBACK IN A MULTIPLE-OWNER CONTENT MANAGEMENT SYSTEM	:

Papers filed on December 12, 2003, in response to a "Decision Refusing Status Under 37 CFR 1.47(a)" mailed on October 6, 2003, included a Declaration signed by a previously non-signing inventor in compliance with 37 CFR 1.63.

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

For the above reasons, the petition is **dismissed as moot**.

This application is being returned to the Office of Initial Patent Examination to complete processing of the application.

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
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MAR 2 9 2010

OFFICE OF PETITIONS

Accenture/Finnegan, Henderson,
Farabow, Garrett & Dunner, LLP
901 New York Avenue
Washington DC 20001-4413

In re Patent No. 7,418,403
Issued: August 26, 2008
Application No. 10/306,025
Filed: November 27, 2002
Dkt. No.: 10761.1438-00000

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT-POST GRANT," filed on October 27, 2008, 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 349 days. Patentees argue that the patent is entitled to an additional adjustment of 431 days for failure to issue the patent within three years of the application filing date. Patentees further assert that the adjustment is properly reduced an additional 12 days in connection with the submission of an information disclosure statement (IDS) on May 20, 2008.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.**

As acknowledged, the "A" period of delay totals 319 days. 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 28, 2005 and ends on January 31, 2007, the day before the RCE was filed, and not February 1, 2007, the day of filing of the RCE as calculated by patentees. See 35 U.S.C. 154(b)(1)(B)(i). Thus, the "B" period of over 3 year delay is 430 days not 431 days.

Patentees advise that the adjustment is subject to an additional reduction of 12 days in connection with the IDS filed May 20, 2008. However, a review of the record reveals that the correct period of reduction is 14 days pursuant to 37 CFR 1.704(c)(10). The reduction commenced May 20, 2008, the date that the IDS was filed, and ended June 2, 2008, the date that a notice in response thereto was mailed by the Office.

In view thereof, the patent is entitled to an overall adjustment of 346 days ("A" adjustments of 319 days + "B" adjustments of 430 days – applicant delays of 403 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. See, 37 CFR 1.323(a)(4).

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 Corrections 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 346 days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,418,403 B2

DATED : **August 26, 2008** **DRAFT**

INVENTOR(S) : Reid, 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 72 days

Delete the phrase "by 72 days" and insert – by 346 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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OPPENHEIMER WOLFF & DONNELLY, LLP
PLAZA VII, SUITE 3300
45 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-1609

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OCT 31 2007

OFFICE OF PETITIONS

In re Application of	:
Lane, et al.	: DECISION REFUSING STATUS
Application No. 10/306,026	: UNDER 37 CFR 1.47(a)
Filed: November 27, 2002	:
Atty. Dkt. No.: 060021-377401	:
For: ENFORCING TEMPLATE	:
COMPLETION WHEN PUBLISHING TO A	:
CONTENT MANAGEMENT SYSTEM	:

This decision is in response to the petition under 37 CFR 1.47(a) filed August 22, 2003.

The petition under 37 CFR 1.47(a) is **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 1.47(a)," and should only address the deficiencies noted herein. The reply under 37 CFR 1.47(a) may include an oath or declaration executed by the non-signing inventors. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed November 27, 2002 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application (Notice) was mailed January 22, 2003. The Notice required a surcharge and an executed oath or declaration.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

As to item (2), an acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. The declaration contains numerous non-initialed changes. *See*, 37 CFR 1.52(c). The declaration fails to comply

with 1.63(b)(3). The declaration fails to comply with 1.63(c)(1) as relates to non-signing inventor, for whom no address/residence is given, and Inventor Lian, for whom an incomplete address is given. Lastly, the declaration itself is not properly paginated to wit page 1 of 5, page 2 of 5, etcetera.

Any renewed petition should be accompanied by a newly executed oath or declaration in compliance with 37 CFR 1.63. The signature block of the non-signing inventor should remain unexecuted. *See*, MPEP 409.03(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By hand: U.S. Patent and Trademark Office
Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulaney Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OPPENHEIMER WOLFF & DONNELLY, LLP
PLAZA VII, SUITE 3300
45 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-1609

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OCT 3 1 2007

OFFICE OF PETITIONS

In re Application of Lane, et al. Application No. 10/306,026 Filed: November 27, 2002 Atty. Dkt. No.: 060021-377401 For: ENFORCING TEMPLATE COMPLETION WHEN PUBLISHING TO A CONTENT MANAGEMENT SYSTEM	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This decision is in response to the petition under 37 CFR 1.47(a) filed August 22, 2003.

The petition under 37 CFR 1.47(a) is **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 1.47(a)," and should only address the deficiencies noted herein. The reply under 37 CFR 1.47(a) may include an oath or declaration executed by the non-signing inventors. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed November 27, 2002 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application (Notice) was mailed January 22, 2003. The Notice required a surcharge and an executed oath or declaration.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

As to item (2), an acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. The declaration contains numerous non-initialed changes. *See*, 37 CFR 1.52(c). The declaration fails to comply

with 1.63(b)(3). The declaration fails to comply with 1.63(c)(1) as relates to non-signing inventor, for whom no address/residence is given, and Inventor Lian, for whom an incomplete address is given. Lastly, the declaration itself is not properly paginated to wit page 1 of 5, page 2 of 5, etcetera.

Any renewed petition should be accompanied by a newly executed oath or declaration in compliance with 37 CFR 1.63. The signature block of the non-signing inventor should remain unexecuted. *See*, MPEP 409.03(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By hand: U.S. Patent and Trademark Office
Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulaney Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OPPENHEIMER WOLFF & DONNELLY, LLP
PLAZA VII, SUITE 3300
45 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-1609

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MAR 24 2008

OFFICE OF PETITIONS

In re Application of :
Lane, et al. :
Application No. 10/306,026 :
Filed: November 27, 2002 :
Attorney Docket No. 60021-377401 :

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed January 28, 2008.

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 application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.[1]

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being referred to the Office of Initial Patent Examination for pre-examination processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

[1] It is noted that the original petition was filed August 22, 2003. The last known address of the non-signing inventor appears to have changed from the time of the original petition filing. Accordingly, the last known address is presumed to be that as more recently set forth in the declaration and application datasheet submitted January 28, 2008. If this is an incorrect understanding, petitioners should promptly notify the Office.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

Gregory S. Reid
157 Spofford Rd.
Boxford, MA 01921

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MAR 24 2008

OFFICE OF PETITIONS

In re Application of
Lane, et al.
Application No. 10/306,026
Filed: November 27, 2002
For: ENFORCING TEMPLATE COMPLETION WHEN PUBLISHING TO A CONTENT MANAGEMENT SYSTEM

Dear Sir:

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 the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3205. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Alesia M. Brown
Petitions Attorney
Office of Petitions

cc: OPPENHEIMER WOLFF & DONNELLY, LLP
PLAZA VII, SUITE 3300
45 SOUTH SEVENTH STREET
MINNEAPOLIS, MD 55402-1609

UNITED STATES PATENT AND TRADEMARK OFFICE

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RAYMOND Y. CHAN
108 N. YNEZ AVE., SUITE 128
MONTEREY PARK CA 91754

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AUG 3 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Xiao, Tony Xin	:	
Application No. 10/306,033	:	ON PETITION
Filed: November 26, 2002	:	
Attorney Docket No. USDP2001A-VIG	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 23, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the final Office action mailed December 13, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on March 14, 2005. A Notice of Abandonment was mailed June 23, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to Technology Center 3700 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/30/2010

Applicant	: Russell S. Rive	: DECISION ON REQUEST FOR
Patent Number	: 7627667	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/306,049	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/26/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1765** 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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WILMER CUTLER PICKERING HALE AND DORR LLP
60 STATE STREET
BOSTON MA 02109

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APR 12 2005

OFFICE OF PETITIONS

In re Application of	:	
Matthias Wagner et al	:	
Application No. 10/306,056	:	ON PETITION
Filed: November 27, 2002	:	
Attorney Docket No. 111554.130 (US3)	:	

This is a decision on the petition, filed April 8, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 9, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2873 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

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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).

Copied from 10243383 on 04/18/2005

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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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

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DEC 1 1 2008

OFFICE OF PETITIONS

In re Application of
Lutz Biedermann et al.
Application No. 10/306,057
Filed: November 27, 2002
Attorney Docket No: 56732/B884

ON PETITION

This is a decision on the petition filed June 4, 2008 under 37 CFR 1.182, for withdrawal of the terminal disclaimer filed November 7, 2007.

The petition is **GRANTED**.

The examiner responsible for the above-identified application has indicated that the terminal disclaimer filed November 7, 2007 does not apply to any of the claims as currently amended. Accordingly, on petition the terminal disclaimer is withdrawn.

The petition fee in the amount of $400.00 has been charged to deposit account no. 03-1728 pursuant to the authorization contained in the petition.

This matter is being referred to Technology Center 3775 to correct the records related to the terminal disclaimer filed November 7, 2007 consistent with this decision.

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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Paper No. 12

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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SEP 13 2004

OFFICE OF PETITIONS

In re Application of	:	
Fereira et al	:	
Application No. 10/306,063	:	DECISION GRANTING PETITION
Filed: November 27, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 3139-6168.1US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 9, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the nonfinal Office action mailed October 9, 2003, which set a shortened statutory period of three months for reply. No extensions of time pursuant to the provisions of 37 CFR 1.136(a) having been obtained, the date of abandonment of this application is January 10, 2004. A Notice of Abandonment was mailed on April 16, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment;[1] (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of October 9, 2003 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-8680.

The application file is being forwarded to Technology Center AU 3763 for appropriate action as the nature of the case may require.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] Receipt is also acknowledged of a declaration under 37 CFR 1.131 and an Information Disclosure Statement.

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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BURNS, DOANE, SWECKER & MATHIS, LLP
P.O. Box 1404
ALEXANDRIA, VA 22313-1404

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OFFICE OF PETITIONS

In re Application of :
Teck Sing Tie, et al. :
Application No. 10/306,072 : ON PETITION
Filed: November 27, 2002 :
Attorney Docket No. 032008-021 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 8, 2009, to revive the above-identified application.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 12, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is February 13, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on July 8, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2439 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

No. 8

POSZ & BETHARDS PLC
11250 ROGER BACON DRIVE
SUITE 10
RESTON, VA 20190

COPY MAILED

OCT 2 0 2004

OFFICE OF PETITIONS

In re Application of	:
Lee Proctor et al	:
Application No. 10/306,091	: DECISION GRANTING PETITION
Filed: November 27, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. CE09367R/10-111	:

This is a decision on the petition, filed October 19, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 28, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

Upon receipt of the file in the Office of Petitions and association of the instant petition, RCE, IDS and decision on petition with the file, the file will be forwarded to Technology Center AU 2666 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[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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SEP 10 2003

Paper No. 4

In re Application of	:	
Ronald John Gainer	:	
Serial No. 10/306,124	:	DECISION ON PETITION
Filed: November 27, 2002	:	TO MAKE SPECIAL
For: MILLING HEAD FOR THREAD	:	
WHIRLING	:	

Applicant's petition, filed August 19, 2003, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Timothy J. Olson
Cantor, Colburn LLP
55 Griffin Road South
Bloomfield, CT 06002

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

BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

Mail Date: 04/20/2010

Applicant	: John Denny	: DECISION ON REQUEST FOR
Patent Number	: 7620525	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/306,135	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/27/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1096** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Address: COMMISSIONER FOR PATENTS
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www.uspto.gov

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: Stephen P. De Groote	: DECISION ON REQUEST FOR
Patent Number	: 7577735	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/306,144	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/27/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **960** 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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JUN 7 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

In re Application of :
Franck BEAUCOUP et al. :
Application No. 10/306,154 : DECISION ON PETITION
Filed: November 29, 2002 :
For: METHOD OF ACOUSTIC ECHO :
CANCELLATION IN FULL-DUPLEX HANDS
FREE AUDIO CONFERENCING WITH SPATIAL
DIRECTIVITY

This is a decision on the petition, filed May 10,2005, to withdraw the above-identified application from issue pursuant to the provisions of 37 CFR 1.313(a).

The petition is **Dismissed as Moot** for the reason stated below.

A review of the application file reveals that a Notice of Allowance was mailed for the above-identified application on April 29, 2005. Subsequently, a Request for Continued Examination (RCE) was filed concurrently with the instant petition and an Information Disclosure Statement on May 10, 2005. Since applicant timely submitted a Request for Continued Examination (RCE) **prior** to payment of the issue fee, a petition to withdraw from issue under 37 CFR 1.313(a) is unnecessary.

The application will be forwarded to Technology Center 2600 Technical Support Staff for processing the RCE. From there, the application will be forwarded to the examiner for further action as appropriate.

Mark Powell, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/306,165	11/29/2002	Hidenori Yamada	04853.0107-01000	8351

22852 7590 06/03/2010
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

EXAMINER
HANLEY, SUSAN MARIE

ART UNIT	PAPER NUMBER
1651	

MAIL DATE	DELIVERY MODE
06/03/2010	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 DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10306165	11/29/02	YAMADA ET AL.	04853.0107-01000

EXAMINER
Michael G. Wityshyn

ART UNIT	PAPER
1651	20100531

DATE MAILED:

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

In re Application of: Yamada et al :
Serial Number: 10/306165 :
Filed: November 29, 2002 :
Attorney Docket: 04853.0107-01000 : DECISION ON PETITION
For: METHOD OF TRANSDUCING A PROTEIN :
INTO CELLS :

This is in response to Applicant's petition to accept color drawings/photographs filed on May 18. 2010.

All requirements under 37 CFR 1.84(a)(2) are met. Accordingly, petition is Granted.

Petition GRANTED.

/Michael G. Wityshyn/
Supervisory Patent Examiner, Art Unit 1651

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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WOLF GREENFIELD (Microsoft Corporation)
C/O WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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JUN 0 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Abhishek ABHISHEK et al.	:	
Application No. 10/306,169	:	DECISION ON PETITION
Filed: November 27, 2002	:	
Attorney Docket No. **218642**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 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, March 21, 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 June 22, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540, and (3) an adequate statement of unintentional delay. Accordingly, the reply to the non-final Office action of March 21, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 2135 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
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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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

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OCT 17 2005

OFFICE OF PETITIONS

In re Application of
Jorge Osorio, Jose Maria Fernandez, Manuel Mancha and Rafael Garces
Application No. 10/306,176
Filed: November 25, 2002
Title: SUNFLOWER SEEDS AND OIL HAVING A HIGH STEARIC ACID CONTENT

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed November 25, 2002. The petition was recently forwarded to this office for review.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on November 25, 2002 without a fully executed oath or declaration and naming Jorge Osorio, Jose Maria Fernandez, Manuel Mancha and Rafael Garces as joint inventors.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

Applicant lacks item (1), as set forth above.

Rule 47 applicant appears to demonstrate that the non-signing inventor was only presented with the declaration and power of attorney. Unless the non-signing inventor was presented with a copy of the application papers (specification, claims and drawings), the non-signing inventor could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration which he was given. Accordingly, Rule 47 applicant failed to show or provide proof that the inventor has refused to sign the declaration. See MPEP 409.03(d). Petitioner should show that a copy of the application papers was presented to the non-signing inventor, but that he did not respond to, or refused, the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

The petition fee will be charged to deposit account no. 03-1740.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

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DEC 0 1 2005

OFFICE OF PETITIONS

In re Application of
Jorge Osorio, Jose Maria Fernandez,
Manuel Mancha and Rafael Garces
Application No. 10/306,176
Filed: November 25, 2002
For: SUNFLOWER SEEDS AND OIL HAVING A HIGH STEARIC ACID CONTENT

DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to the "Request For Reconsideration of Petition Under 37 CFR 1.47(a)," filed November 21, 2005.

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.

This application is being forwarded to Publishing Division.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JORGE OSORIO
VIRGEN DE CONSOLACIÓN 14-4°B
41011 SEVILLA
SPAIN

COPY MAILED

DEC 0 1 2005

OFFICE OF PETITIONS

In re Application of
Jorge Osorio, Jose Maria Fernandez,
Manuel Mancha and Rafael Garces
Application No. 10/306,176
Filed: November 25, 2002
For: SUNFLOWER SEEDS AND OIL HAVING A HIGH STEARIC ACID CONTENT

Dear JORGE OSORIO:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

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Paper No. 15

MR. JEFFREY J. HOHENSHELL
AMS RESEARCH CORPORATION
10700 BREN ROAD WEST
MINNETONKA, MN 55343

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JAN 2 3 2004

OFFICE OF PETITIONS

In re Application of
Kimberly A. Anderson, et al.
Application No. 10/306,179
Filed: November 27, 2002
Attorney Docket No. AMS-096

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed by fascismile transmission on January 9, 2004[1], 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 signature of Paul W. Busse appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Mr. Busse desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Busse, 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 October 20, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [2]

---

[1]The original petition cannot be located. A copy of the petition, as well as the accompanying RCE and IDS, was provided on January 21, 2004 for a decision thereon.

[2]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 (703) 305-9220.

After the application is received in the Office of Petitions, the file will be forwarded to Technology Center AU 3736 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: PAUL W. BUSSE
FAEGRE & BENSON LLP
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPLIS, MN 55402-3901

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POLSTER, LIEDER, WOODRUFF & LUCCHESI
12412 POWERSCOURT DRIVE SUITE 200
ST. LOUIS, MO 63131-3615

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JUN 27 2005

OFFICE OF PETITIONS

In re Application of :
Wei Tong, et al. :
Application No. 10/306,193 :
Filed: November 27, 2002 :
Attorney Docket No. GEPO 8521 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 7, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed October 1, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 3, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee; (2) the petition and publication fees; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

This application matter is being forwarded to the Publishing Division for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Leo Zachmeier
6650 Willow Road Northeast
Mandan ND 58554

MAILED

NOV 19 2009

OFFICE OF PETITIONS

In re Patent No. 6,923,452 Issue Date: August 2, 2005 Application No. 10/306,216 Filed: November 29, 2002	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed September 24, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 3, 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 Terri Johnson at (571) 272-2991.

The patent file is being forwarded to Files Repository.

Terri Johnson
Petitions Examiner
Office of Petitions

OIPE IAP78
SEP 24 2009
PATENT & TRADEMARK OFFICE

2009 SEP 28 PM 4:49

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 a valid OMB control number

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378 (c))

Docket Number (Optional)

2009 SEP 28 PM 4:49
RECEIVED
OCT 02 2009
OFFICE OF PETITIONS

Mail to: 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.

Patent No. 6923452 Application Number 10306216

Issue Date 08-02-05 Filing Date 11-29-02

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue 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).

Also complete the following information, if applicable

The above – identified patent

☒ Is a reissue of original Patent No. 6923452 original issue date 08-02-05
original application number 10306216
original filing date 11-29-02

09/30/2009 DALLEN 00000007 6923452
01 FC:1599 2130.00 OP

☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application _____
filed on _____

CERTIFICATE OF MAILING (37 CFR 1.89(a))

I hereby certify that this paper (*along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class main in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

9-22-09
Date

Leo P Zachmeier
Signature

Leo P Zachmeier
Typed or Printed Name of Person Signing Certificate

Adjustment date: 11/19/2009 LDIEP1
09/30/2009 DALLEN 00000007 6923452
01 FC:1599 -2130.00 OP

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, Virginia 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, Virginia 22313-1450**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

11/19/2009 LDIEP1 00000005 6923452
01 FC:2551 490.00 OP
02 FC:1558 1640.00 OP

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

1. SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
☐ $ _____	3 ½ yr fee	(1551)	☐ $ 490.00	3 ½ yr fee	(2551)
☐ $ _____	7 ½ yr fee	(1552)	☐ $ _____	7 ½ yr fee	(2552)
☐ $ _____	11 ½ yr fee	(1553)	☐ $ _____	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED $ 490.00

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) of $ 1640.00 (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of a maintenance fee.

SURCHARGE FEE BEING SUBMITTED $ 1640.00

5. MANNER OF PAYMENT

☒ Enclosed is a check for the sum of $ 2,130.00

☐ Please charge Deposit Account No. _____ the sum of $ _____

☐ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☐ The Director is hereby authorized to charge any maintenance fee, surcharge or petition deficiency to Deposit Account No. _____

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

7. OVERPAYMENT

As to any overpayment made please

☐ Credit to Deposit Account No. _____.

OR

☒ Send refund check

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.

8. STATEMENT

The delay in payment of the maintenance fee to this patent was unintentional.

9. PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

Tony Wald
Leo P Zachmeier
Signature(s) of Petitioner(s)

9-21-09
Date

TONY WALD
Leo P Zachmeier
Typed or printed name(s)

Registration Number, if applicable

1-701-663-8194
Telephone Number

6650 Willow Rd NE Mandan ND 58554
Address

Address

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."

ENCLOSURES

☒ Maintenance Fee Payment

☒ Surcharge under 37 CFR 1.20(i)(2) (fee for filing the maintenance fee petition)

☐ Leo P Zachmeier Tony Wald

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 9

OPPENHEIMER WOLFF & DONNELLY, LLP (ACCENTURE)
PLAZA VII, SUITE 3300
45 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-1609

COPY MAILED

SEP 1 5 2003

OFFICE OF PETITIONS

In re Application of
Reid, et al.
Application No. 10/306,248
Filed: November 27, 2002
Attorney Docket No. 60021-377201
For: COMMUNICATING SOLUTION INFORMATION IN A KNOWLEDGE MANAGEMENT SYSTEM

: DECISION REFUSING
: STATUS UNDER
: 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed August 25, 2003 (certificate of mailing date August 22, 2003).

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on November 22, 2002 without an executed oath or declaration. Accordingly, on January 28, 2003, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration, a surcharge for its late filing.

In response, on August 25, 2003 (certificate of mailing date August 22, 2003), a petition for a five month extension of time and required fee, 43 sheets of drawings, a declaration executed by 11 of 12 joint inventors, the surcharge, the petition fee, and the instant petition were filed. A statement of facts of Attorney Steven C. Lieske accompanies the petition. Mr. Lieske sets forth the last known address of the nonsigning inventor, Gregory S. Reid, and explains that Mr. Reid was e-mailed a copy of the application, declaration, and assignment, but Mr. Reid refused to sign declaration during a telephone conversation with Attorney Lieske on August 6 or 7, 2003.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
(2) an acceptable oath or declaration;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;

Applicant lacks item (2) set forth above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. See MPEP 409.03(b). The declaration does not list

required information for the non-signing inventor. The non-signing inventor's name, citizenship, residence, and post office address must be included on the declaration. If the current residence and post office address is not known definitively, petitioners should use the last known address for the inventor.

In addition, the declaration contains noninitialed, nondated alterations Inventors Lane, Farrell, Fenton, Shearing, Lingham, and Forrester's respective information.. 37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. The Office will not consider whether noninitialed and or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. See MPEP 605.04(a). An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of Mr. Reid is REQUIRED. See MPEP 409.03(a).

Regarding finances, pursuant to petitioners' authorization, deposit account no. 50-1901 will be charged a $130 petition fee.

The Office acknowledges receipt of a power of attorney filed with the instant petition. It would be improper to act on the power of attorney until 47 status is accorded to the application. As of now there is only a partial assignee. Once 47 status is granted, then the power of attorney will be addressed.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITION Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450 Attn: E. Shirene Willis
By facsimile:	(703) 308-6916 Attn: Office of Petitions - E. Shirene Willis
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202 Attn: E. Shirene Willis

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 14

OPPENHEIMER WOLFF & DONNELLY, LLP (ACCENTURE)
PLAZA VII, SUITE 3300
45 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-1609

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JAN 20 2004

OFFICE OF PETITIONS

In re Application of Reid, et al. Application No.: 10/306,248 Filed: November 27, 2002 Attorney Docket No.: 60021-377201 For: COMMUNICATING SOLUTION INFORMATION IN A KNOWLEDGE MANAGEMENT SYSTEM	DECISION NOTING JOINDER OF INVENTOR & PETITION UNDER 37 CFR 1.47(A) DISMISSED AS MOOT

Papers filed on January 9, 2004 in reply to "Decision Refusing Status Under 37 CFR 1.47(a)" mailed on September 15, 2003, included a Declaration signed by the previously non-signing inventor, Gregory S. Reid, in compliance with 37 CFR 1.63, an application data sheet supplying full information for all joint inventors, and supplemental declarations signed by those inventors who had signed the original declaration, but not initialed and dated handwritten modifications to their respective identifying information.

Pursuant to petitioners' authorization, deposit account no. 50-1901 will be charged a $420.00 two month extension of time.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

PATENT APPLICATION FEE DETERMINATION RECORD
Effective October 1, 2003

Application or Docket Number: 10/306252

CLAIMS AS FILED - PART I

	(Column 1)	(Column 2)
TOTAL CLAIMS		
FOR	NUMBER FILED	NUMBER EXTRA
TOTAL CHARGEABLE CLAIMS	minus 20=	*
INDEPENDENT CLAIMS	minus 3 =	*
MULTIPLE DEPENDENT CLAIM PRESENT		☐

* If the difference in column 1 is less than zero, enter "0" in column 2.

SMALL ENTITY TYPE ☐		OR	OTHER THAN SMALL ENTITY	
RATE	FEE		RATE	FEE
BASIC FEE	385.00	OR	BASIC FEE	770.00
X$ 9=		OR	X$18=	
X43=		OR	X86=	
+145=		OR	+290=	
TOTAL		OR	TOTAL	770

RCE 9.28.04

CLAIMS AS AMENDED - PART II

AMENDMENT A

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA
Total	* 20	Minus	** 20	=
Independent	* 3	Minus	*** 3	=
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM				☐

SMALL ENTITY		OR	OTHER THAN SMALL ENTITY	
RATE	ADDITIONAL FEE		RATE	ADDITIONAL FEE
X$ 9=		OR	X$18=	
X43=		OR	X86=	
+145=		OR	+290=	
TOTAL ADDIT. FEE		OR	TOTAL ADDIT. FEE	

12/06/04

AMENDMENT B

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA
Total	* 19	Minus	** 20	=
Independent	* 3	Minus	*** 3	=
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM				☐

RATE	ADDITIONAL FEE		RATE	ADDITIONAL FEE
X$ 9=		OR	X$18=	
X43=		OR	X86=	
+145=		OR	+290=	
TOTAL ADDIT. FEE		OR	TOTAL ADDIT. FEE	

AMENDMENT C

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA
Total	*	Minus	**	=
Independent	*	Minus	***	=
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM				☐

RATE	ADDITIONAL FEE		RATE	ADDITIONAL FEE
X$ 9=		OR	X$18=	
X43=		OR	X86=	
+145=		OR	+290=	
TOTAL ADDIT. FEE		OR	TOTAL ADDIT. FEE	

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.
** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20."
*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3."
The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

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NORMAN FRIEDLAND
2855 PGA BOULEVARD
SUITE 200
PALM BEACH GARDENS FL 33410

MAILED

JUN 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Del Rio et al.	:	
Application No. 10/306,256	:	DECISION ON PETITION
Filed: November 27, 2002	:	
Attorney Docket No. N1009	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 27, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely pay the issue fee on or before February 10, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed November 10, 2004, which set a statutory period of reply of three (3) months. Accordingly, the application became abandoned on February 11, 2005. A Notice of Abandonment was mailed March 22, 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 items (2) and (3).

With regards to item (2), petitioner has not submitted the required petition fee of $810.00. On May 28, 2009, there were insufficient funds in petitioner's deposit account to cover this fee.

With regards to item (3), there are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;
(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and
(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over four 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 February 11, 2005. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Norman Friedland was counsel of record at the time of abandonment, he should explain why this application became abandoned while it was under his control and what efforts were made to further reply of itself and with whom this matter was discussed outside of the practice of Norman Friedland. 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), Norman Friedland and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at the practice of Norman Friedland, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan.

27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over four years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at the practice of Norman Friedland and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S. District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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SEP 1 5 2009

OFFICE OF PETITIONS

In re Application of	:	
Del Rio et al.	:	
Application No. 10/306,256	:	DECISION ON PETITION
Filed: November 27, 2002	:	
Attorney Docket No. N1009	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 17, 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 February 10, 2005, as required by the Notice of Allowance and Fee(s) Due mailed November 10, 2004. Accordingly, the date of abandonment of this application is February 11, 2005. A Notice of Abandonment was mailed March 22, 2005.

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 (previously paid May 27, 2009); (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

Joan Olszewski
Petitions Examiner
Office of Petitions

IFW DAC

OIPE IAP10
AUG 17 2009
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of	)	Examiner: HANNON, THOMAS R
	)	
EDDY H. DEL RIO ET AL	)	
	)	
Serial No. 10/306,256	)	Art Unit: 3682
	)	
Filed: 11/27/2002	)	Docket No.: N1009

Title: NEEDLE/ROLLER BEARING

ATTENTION: OFFICE OF PETITIONS
MAIL STOP: PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO DECISION ON PETITION

Dear Sir:

This is in response to the decision dated June 29, 2009 dismissing applicant's petition to revive the above-captioned application.

The decision was based on 3 counts, namely, the attorney's deposit account was insufficient to pay the statutory fee, 2) the delay in filing the initial petition and 3) and the delay in filing a grantable petition, the latter two being based on 37 CFR § 1.137(b).

With respect to #1, the attorney's submittal to increase the deposit account was late.

With respect to #2 & 3 Friedland, who is a sole practician, submits the following.

1) The last amendment to this application was made on September 10, 2004 and a Notice of Allowance was prepared by the PTO on October 18, 2004 which is approximately 3 years and 3 months when the first status request was mailed to the PTO. This document (the Notice of Allowance) was sent to the wrong address, and hence, never received by Friedland.

2) In 2004, the executive suite, where Friedland rented an office, was forced to vacate resulting in closing Friedland's office and re-locating to the present office. A copy of Lease Agreement is enclosed as Exhibit A. It should be stated that Friedland was ill at the time and required others (movers) to transfer the files and move the furniture. This can be attested to by Ms. Connie Larkins who was and still is a part-time secretary and who has not been able to be reached over the last several months.

09/14/2009 CKHLUK 00000016 062000 10306256
01 FC:2453 810.00 DA

3) A change of address was mailed to the PTO

4) For some reason and unexplainable to Friedland the above application was missing for a period of time. The main file held all of the files except those being worked on. The files being worked on were placed on the top of my desk or in the desk drawer. At that time I purchased a new desk and these documents were supposed to have been transferred to the new desk. The file which was misplace was recovered by searching the entire files at the time Friedland was notified by Del Rio that no patent issued.

5) The last correspondence to the PTO was the above-mentioned Amendment made in September 10, 2004 and no further correspondence was sent from or received by this office until the first status request letter was mailed to the PTO on January 9, 2008. From my note on the auto-reply that was sent to my client Eddy Del Rio, it is noted that an attempt was made to call the PTO. Five other status request letters were subsequently mailed to the PTO. All being included as Exhibits B, C, D, E, F & G. Because the address to which the PTO's correspondence was sent to was wrong, none of the correspondence, subsequent to Friedland's move to a different office was received.

The undersigned mind set at this time is that the PTO is, in almost in every instance, very late in sending out correspondence and in at least one occasion the applicant's term was increased to almost 2 years. Friedland has experienced on at least one occasion where the PTO lost or misplaced the application file and a duplicate copy was mailed to it. And the supervisor of the group suggested, because of the wrong address, I would have no difficulty in getting the application revived. This does not excuse the delay, but is an attempt to show the state of mind that the attorney of record was in.

The mere fact that the prosecution of the application was almost complete and a Notice of Allowance was issued, and historically, the assignee has never allowed an application to become abandoned intentionally speaks to the issue that applicant never intended to abandon the application and that the delay was unintentional from the time of the last amendment to the present time.

It is respectfully requested that the application be re-instated and that the fees be paid.

All fees and charges are, hereby, authorized to be paid from the Attorney's Deposit Account 062000.

Respectfully submitted,

Norman Friedland

Date: August 13, 2009

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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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AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH, FL 33402-3188

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JUL 11 2005

OFFICE OF PETITIONS

In re Application of :
Frohnhaus, et al. :
Application No. 10/306,257 :
Filed: November 27, 2002 :
Attorney Docket No. 200-56 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 13, 2005, which has been treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed September 17, 2004. Accordingly, this application became abandoned on December 18, 2004. A Notice of Abandonment was mailed on April 8, 2005.

Petitioner asserts that a "Request for Continued Examination" (RCE), an amendment and a three (3) month extension of time were timely submitted on March 17, 2005, by facsimile. In support, petitioner has submitted a copy of the originally filed RCE, amendment and extension of time. The RCE and amendment each contain an executed Certificate of Facsimile Transmission under 37 CFR 1.8 dated March 17, 2005. It is noted that the RCE transmittal contains an authorization to charge a deposit account for the required RCE fee and the extension of time fee. Additionally, petitioner has submitted a copy of the "facsimile transmission report" that confirms transmission of the documents on March 17, 2005.

Accordingly, the petition is granted and the holding of abandonment is withdrawn.

A petition fee has not been charged.

This application is being forwarded to Technology Center 3600, for review of the RCE and amendment, filed April 13, 2005 (originally filed March 17, 2005).

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

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CHRISTOPHER M. GOFF
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST. LOUIS, MO 63102

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APR 03 2009

OFFICE OF PETITIONS

In re Application of :
Jayant Chakravarty et al :
Application No. 10/306,277 : ON PETITION
Filed: November 27, 2002 :
Attorney Docket No. 17527.1 (27839-1037)

This is a decision on the petition, filed April 2, 2009 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 25, 2009 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1794 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

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JUN 30 2008
OFFICE OF PETITIONS

In re Application of :
Thomas E. Broome. et. al. :
Application No. 10/306,288 : ON PETITION
Filed: November 27, 2002 :
Attorney Docket No. 1001.1574101 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 30, 2007, to revive the above-identified application.

The application became abandoned for failure to file a proper reply to the final Office action mailed April 27, 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 continuation application; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the above application is again abandoned in favor of continuing application No. 11/929,007.

The Office acknowledges receipt of $1,050 for a three months extension of time filed on October 30, 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 $1,050 extension of time 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) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date : 9/08/2008
Patent No. : 7,147,790 B2
Inventor(s) : Wachenschwanz et al.
Issue Date : December 12, 2006
Title : **PERPENDICULAR MAGNETIC DISCRETE TRACK RECORDING DISK**
Doc./File No. : **004085.P026**

Re: Certificate of Correction

Consideration has been given your request for a certificate of correction, for the above-identified patent under the provisions of Rule 1.322 and 1.323.

Respecting the alleged error(s) in your request, in the References Cited, the patent is printed in accordance with the record, since there is no record of a 1449 or 892 with reference(s) considered by the Examiner.

In view of the foregoing, your request in this matter is denied.

Further consideration will be given concerning this matter upon receipt of a request for **Reconsideration** (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892, etc.) and should be filed and directed to Decisions & Certificates of Correction Branch.

Ernest C. White, *LIE* (703) 308-9390 x122
Mary F. Diggs, *Supervisor* (703) 308-9390 x125
Decisions & Certificates of Correction Branch

WESTERN DIGITAL TECHNOLOGIES, INC.
ATTN: LESLEY NING
20511 LAKE FOREST DR.
E-118G
LAKE FOREST CA 92630

ecw

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COMMISSIONER FOR PATENTS
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WWW.USPTO.GOV

Paper No. 6

Clyde L. Smith
Thompson Coburn LLP
One US Bank Plaza
St. Louis MO 63101-9928

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JUN 1 2 2003

OFFICE OF PETITIONS

In re Application of
An-Chi Chen
Application No. 10/306,334
Filed: November 27, 2002
Attorney Docket No. 66051-35523
For: ANTENNA FOB

: DECISION REFUSING
: STATUS UNDER
: 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed May 1, 2003 (certificate of mailing April 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 27, 2002 without an executed oath or declaration. Accordingly, on January 24, 2003, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on May 1, 2003 (certificate of mailing April 24, 2003), a petition for a one month extension of time and required fee, a declaration executed by Patrick J. Wrob, President of the assignee of the invention, the surcharge, the petition fee, and the instant petition were filed. The petition sets forth the last know address of non-signing inventor An-Chi Chen

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
(2) an acceptable oath or declaration;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest; and
(6) proof of irreparable damage.

Applicant lacks item (1) set forth above.

As to item (1), Applicant has failed to establish that the inventor has refused to sign the declaration. Petitioner merely states that business relations between the assignee and the inventor have soured and the inventor refuses to sign the declaration.

The Office requires that petitioner mail a complete copy of the application to An-Chi Chen's last known address. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d).

When petitioner can provide evidence that Inventor Chen received the complete application and that Inventor Chen either refused to sign the declaration or would not respond to the request that he/she sign the declaration within a reasonable amount of time, petitioner will have established the inventor's refusal to join in the filing of the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

Any written refusal to sign the declaration should be included as documentary evidence in any reconsideration petition. If there is an oral refusal, the facts surrounding the refusal should be included in a declaration by a party with first hand knowledge of the refusal. If it is concluded by the 37 CFR 1.47 applicant that a non-signing inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITION Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450 Attn: E. Shirene Willis
By facsimile:	(703) 308-6916 Attn: Office of Petitions -- E. Shirene Willis
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202 Attn: E. Shirene Willis

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 11

Clyde L. Smith
Thompson Coburn LLP
One US Bank Plaza
St. Louis MO 63101-9928

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DEC 3 0 2003

OFFICE OF PETITIONS

In re Application of
An-Chi Chen
Application No. 10/306,334
Filed: November 27, 2002
Attorney Docket No. 66051-35523
For: ANTENNA FOB

: DECISION NOTING JOINDER
: OF INVENTOR & PETITION
: UNDER 37 CFR 1.47(B)
: DISMISSED AS MOOT

Papers filed on December 17, 2003 (certificate of mailing date December 12, 2003) in reply to "Decision Refusing Status Under 37 CFR 1.47(a)" mailed on June 12, 2003, included a Declaration signed by the previously nonsigning inventor, An-Chi Chen, in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(b) is moot; this application does not have any rule 1.47(b) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(b).

After the mailing of the instant decision, this application file will be forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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www.uspto.gov

Paper No. 6

OPPENHEIMER WOLFF & DONNELLY,
LLP (ACCENTURE)
PLAZA VII, SUITE 3300
45 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-1609

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SEP 3 0 2003

OFFICE OF PETITIONS

In re Application of:	:	
Reid et al.	:	DECISION REFUSING
Application No. 10/306,386	:	STATUS
Filed: November 27, 2002	:	UNDER 37 CFR 1.47(a)
Title of Invention: PRESENTING	:	
LINKED INFORMATION IN A CRM SYSTEM	:	

This is in response to a petition under 37 CFR 1.47(a), filed August 25, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on November 27, 2002, without an oath or declaration. This Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice") on January 24, 2003, requiring, *inter alia*, a properly signed oath or declaration and a late filing fee, oath or declaration and surcharge.

In response to the Notice, Applicant files the instant petition wherein Applicant avers that the nonsigning inventor could not be reached for signature. The petition provides, as a last known address, a business address and an e-mail address.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to

sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (2) and (4) as set forth above.

As to item (2), Applicant has failed to provide an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116. The signatures (page 5 of one of the Declarations) of inventors Kevin Adams, Lesley Pickering and Paul Ritchie are missing from the application file.

A properly executed oath or declaration is required.

As to item (4), the last known address of the nonsigning inventor, as provided in the statement of last known address, should be the inventor's most recent home address. *See*, MPEP 605.03 ("the inventor's most recent home address must be given in order for the Office to communicate directly with the inventor as necessary").

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA 22202-3113

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 10

OPPENHEIMER WOLFF & DONNELLY,
LLP (ACCENTURE)
PLAZA VII, SUITE 3300
45 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-1609

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FEB 04 2004

OFFICE OF PETITIONS

In re Application of: :
Lane et al. :
Application No. 10/306,386 :
Filed: November 27, 2002 :
Title of Invention: PRESENTING :
LINKED INFORMATION IN A CRM SYSTEM :

DECISION NOTING
JOINDER OF INVENTOR

This is in response to the Request for Reconsideration Petition, under 37 CFR 1.47(a), filed January 20, 2004, noting the joinder of the inventor. A two (2) month extension-of-time fee has been charged deposit account 50-1901 as authorized in the instant petition.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the Reconsideration of Petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The Declaration/Power of Attorney and Application Data Sheet have been entered and made of record.

This application is being returned to the Office if Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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MACPHERSON KWOK CHEN & HEID LLP
1762 TECHNOLOGY DR
SUITE 226
SAN JOSE CA 95110

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FEB 2 2 2005

OFFICE OF PETITIONS

In re Application	:	
Cauchi, et al.	:	
Application No. 10/306,397	:	DECISION ON PATENT TERM ADJUSTMENT
Filed: November 27, 2002	:	
Attorney Docket No. M-12842 US	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. 1.705(b))," filed January 31, 2005, requesting correction of the patent term adjustment (PTA) indicated on the patent from one hundred fifty-three (153) days to one hundred fifty-six (156) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **one hundred fifty-six (156) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 5, 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 one hundred fifty-three (153) days. On January 31, 2005, Applicants timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is one hundred fifty-six (156) days.

Applicants assert entitlement to a patent term adjustment of one hundred fifty-six (156) days on the basis that the PTO improperly assessed Applicants a delay of three (3) days for filing a supplemental response on December 6, 2004.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of one hundred fifty-three (153) days based on an adjustment for PTO delay of one hundred fifty-six (156) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by Applicants' delay of three (3) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(8). The adjustments of 3 days is at issue.

A review of the application file reveals that the amendment in response to the November 1, 2004 Office action was filed on December 6, 2004, not December 3, 2004. In addition, on December 6, 2004, applicants also filed two terminal disclaimers. As both the amendment and the terminal disclaimers were filed on December 6, 2004, no applicant delay should have been assessed for the filing of a supplemental reply.

Accordingly, the correct determination of PTA at the time of mailing of the Notice of Allowance is **one hundred fifty-six (156) days** (156 days of PTO delay and 0 days of applicant delay).

The $200 fee set forth in 37 C.F.R. § 1.18(e) has been charged to Deposit Account No. 50-2257, as authorized.

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

---

[1] Applicants filed the application for patent term adjustment contemporaneously with the filing of the issue fee.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kerry A Fries
for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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AUG -4 2003

Paper No. 7

In re Application of
Donna L. Walton
Application No. 10/306,409
Filed: November 27, 2002
Attorney Docket No. DWAL-0001

: DECISION ON PETITION

This is a decision on the petition to make this application special for advanced examination out of turn that was filed on June 18, 2003. The $130.00 petition fee has been paid.

The petition is granted.

Petitioner has requested special status on the grounds of actual infringement of the claimed invention. A review of the petition shows that petitioner has satisfied all of the requirements for a petition to make special on the grounds alleged as those requirements appear in MPEP § 708.02(II).

Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The application is being forwarded to the Supervisory Patent Examiner of Patent Examining Art Unit 3714, who will forward the application to the examiner for action consistent with this Decision.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner
Patent Examining Groups 3710 and 3720

Jackson Walker LLP
2435 N. Central Expressway
Suite 600
Richardson, TX 75080

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALBERTO MESA
4744 NW 114 AVE. #105
DORAL, FL 33178

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MAR 1 1 2009

OFFICE OF PETITIONS

In re Application of :
Alberto Mesa :
Application No. 10/306,432 : DECISION ON PETITION
Filed: November 27, 2002 :
Attorney Docket No. MIM1640 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 19, 2008, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely pay the issue fee on or before January 19, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed October 19, 2004. Accordingly, the application became abandoned on January 20, 2005. A Notice of Abandonment was mailed on March 3, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over three

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 January 20, 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 Anthony Edw. J. Campbell was counsel of record at the time of abandonment, Mr. Campbell should explain why this application became abandoned while it was under his control and what efforts he made to further reply of itself and with whom this matter was discussed. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification.

That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over three 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 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).

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]

Telephone inquiries concerning this decision should 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/306,432	11/27/2002	Alberto Mesa	MIM1640

CONFIRMATION NO. 9052

POWER OF ATTORNEY NOTICE

30245
ANTHONY EDW. J CAMPBELL
PO BOX 160370
AUSTIN, TX 78716

OC000000034895034

Date Mailed: 03/09/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/19/2008.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/sdbrinkley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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MAY 27 2010

OFFICE OF PETITIONS

ANTHONY EDW. J CAMPBELL
PO BOX 160370
AUSTIN TX 78716

In re Application of
Alberto Mesa
Application No. 10/306,432
Filed: November 27, 2002
Attorney Docket No.: MIM1640

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 4, 2009, to revive the above-identified design application. The delay in responding is regretted; however, the petition was recently referred to the undersigned for consideration.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before January 19, 2005, as required by the Notice of Allowance and Fee(s) Due mailed October 19, 2004. A Notice of Abandonment was mailed on March 3, 2005. On December 19, 2008, a petition under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed March 11, 2009. On May 4, 2009, the present petition was filed.

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).

On reconsideration, the petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $755 issue fee, (2) the petition fee of $810; and (3) an adequate statement of unintentional delay. Accordingly, the failure to timely pay the issue fee as required by the Notice of October 19, 2004 is accepted as being unintentionally delayed.

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

cc: ALBERTO MESA
4744 NW 114 AVE. #105
DORAL, FL 33178

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/30/05

Paper No.: —

TO SPE OF : ART UNIT 2875

SUBJECT : Request for Certificate of Correction on Patent No.: 6837605 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:

CORRECTED SPECIFICATION IS FOUND ON RECORD IN EDAN AS STATED.

Sandra O'Shea
Supervisory Patent Examiner
Technology Center 2800

SPE

2875
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

10-306-451

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/17/04

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction on Patent No.: PP 14,804 P2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-922
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

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:

BRUCE R. CAMPELL, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Bruce Campell
SPE

1654
Art Unit

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DAVID L. McCOMBS
HAYNES & BOONES LLP
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202-3789

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NOV 06 2006
OFFICE OF PETITIONS

In re Application of	:	
Eric G. Parker	:	
Application No. 10/306,464	:	DECISION ON PETITION
Filed: November 27, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 34003.53/P032US	:	

This is a decision on the petition, filed March 17, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on October 27, 2004 and December 30, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

A final Office action was mailed in this case on September 26, 2006. Failure to timely reply within the period provided therefor will result in the abandonment of this application.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 7

Thomas D. Smith
7008 Landing Rd.
Oklahoma City, OK 73132

COPY MAILED

MAR 0 4 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Thomas D. Smith :
Application No. 10/306,505 :
Filed: November 27, 2002 :
Attorney Docket No. TDS2002-002 :

This is a decision on the petition under 37 CFR 1.137(a), filed January 20, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed January 27, 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 28, 2003. A Notice of Abandonment was mailed on February 18, 2004.

A grantable petition under 37 CFR 1.137(a) must be accompanied by:
(1) the required reply,
(2) the petition fee,
(3) a showing <u>to the satisfaction of the Commissioner</u> that the <u>entire</u> 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 <u>unavoidable</u>, and
(4) a terminal disclaimer and fee *if* the application was filed on or before June 8, 1995 or *if* the application is a design application.

The instant petition lacks items (1) and (3).

As to item (1), the amount of the filing fee which must be paid is determined on the date the filing fee is paid in full. At the time the Notice was mailed (January 27, 2003), the filing fee was $370. However, the fee was increased to $385 on October 1, 2003. Therefore, petitioner must pay an additional $15 for the remainder of the filing fee.

As to item (3), 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, petitioner should take the following steps.

Petitioner should state where papers from the Office are kept. Are all papers kept in one

location? Has a search of this location been performed? Are papers discarded after receipt; in other words, is petitioner relying solely on his memory?

Petitioner should discuss how the mail would have been "processed" upon receipt. Does petitioner handle all mail personally? The previous question becomes very relevant when a petitioner owns a small business and has a secretary or other employees initially handling the mail. Would the paper have been placed in a file or put in a location to be dealt with later such as an inbox?

Petitioner should supply any other information which indicates non-receipt of the Office action.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
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

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 9

Docket Clerk
PO Drawer 800889
Dallas, TX 75380

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MAR 1 5 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Thomas D. Smith :
Application No. 10/306,505 :
Filed: November 27, 2002 :
Attorney Docket No. SMIT26-00005 :

CORRECTED DECISION

This is a decision on the petition under 37 CFR 1.137(a), filed January 20, 2004, to revive the above-identified application.

A corrected decision is being mailed because the prior decision was mailed to an incorrect address. On March 3, 2004, a request to change the address was filed. A decision was mailed to the old address on March 4, 2004. The request to change the address was not matched with the file until March 10, 2004. The corrected decision is being mailed to the new address.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed January 27, 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 28, 2003. A Notice of Abandonment was mailed on February 18, 2004.

A grantable petition under 37 CFR 1.137(a) must be accompanied by:
(1) the required reply,
(2) the petition fee,
(3) a showing <u>to the satisfaction of the Commissioner</u> that the <u>entire</u> 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 <u>unavoidable</u>, and
(4) a terminal disclaimer and fee *if* the application was filed on or before June 8, 1995 or *if* the application is a design application.

The instant petition lacks items (1) and (3).

As to item (1), the amount of the filing fee which must be paid is determined on the date the filing fee is paid in full. At the time the Notice was mailed (January 27, 2003), the filing fee was

$370. However, the fee was increased to $385 on October 1, 2003. Therefore, petitioner must pay an additional $15 for the remainder of the filing fee.

As to item (3), 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, petitioner should take the following steps.

Petitioner should state where papers from the Office are kept. Are all papers kept in one location? Has a search of this location been performed? Are papers discarded after receipt; in other words, is petitioner relying solely on his memory?

Petitioner should discuss how the mail would have been "processed" upon receipt. Does petitioner handle all mail personally? The previous question becomes very relevant when a petitioner owns a small business and has a secretary or other employees initially handling the mail. Would the paper have been placed in a file or put in a location to be dealt with later such as an inbox?

Petitioner should supply any other information which indicates non-receipt of the Office action.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
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

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COMMISSIONER FOR PATENTS
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Paper No. 12

Docket Clerk
PO Drawer 800889
Dallas, TX 75380

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APR 19 2004

OFFICE OF PETITIONS

In re Application of :
Thomas D. Smith :
Application No. 10/306,505 :
Filed: November 27, 2002 :
Attorney Docket No. SMIT26-00005 :

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(a), and in the alternative under 37 CFR 1.137(b), filed March 29, 2004, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **granted**.

The petition under 37 CFR 1.137(b) is **dismissed as moot** since the petition under 37 CFR 1.137(a) has been granted.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed January 27, 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 28, 2003. A Notice of Abandonment was mailed on February 18, 2004.

A renewed petition under 37 CFR 1.137(a) has been filed requesting revival of the application. The petition meets the requirements of 37 CFR 1.137(a) and therefore the petition is granted.

The file is now being forwarded to the Office of Initial Patent Examination for further processing.

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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OFFICE OF PETITIONS

In re Application of	:
Thomas D. Smith	:
Application No. 10/306,505	: DECISION ON PETITION
Filed: November 27, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. SMIT26-00005	:

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 application, No. 10/101,819, filed March 19, 2002, 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 27, 2002, and was pending at the time of filing of the instant petition. A reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the above-noted, 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 above-noted, prior-filed nonprovisional application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Petitions Attorney Christina Tartera Donnell at (571) 272-3211.

This matter is being referred to Technology Center Art Unit 3641 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 above-noted prior-filed nonprovisional application.

Frances Hicks

Frances Hicks
Lead Paralegal
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

8P

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AUG 17 2005

In re Application of TAKEDA ET AL.	:	
Appl. No.: 10/306,516	:	**WITHDRAWAL FROM ISSUE**
Filed: November 27, 2002	:	*37 CFR 1.313*
For: DRIVING CIRCUIT FOR PIEZOELECTRIC TRANSFORMER, COLD-CATHODE TUBE LIGHT-EMITTING APPARATUS, LIQUID CRYSTAL PANEL AND DEVICE WITH BUILT-IN LIQUID CRYSTAL PANEL	:	

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

U.S. Patent and Trademark Office records reveal that the issue fee and the publication fee have not been paid. If the issue fee and the publication fee have been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Fees Due, applicant may request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified on the new Notice of Allowance and Issue and Publication Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

The application is being forwarded to the examiner for action.

Richard Seidel
Director
Patent Examining Technology Center 2800

HAMRE, SCHUMANN, MUELLER & LARSON, P.C.
P.O. BOX 2902-0902
MINNEAPOLIS, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

Helen C. Lockhart
Wolf, Greenfield & Sacks, P.C.
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210

MAILED

MAR 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Krieg et al.	:	DECISION ON APPLICATION
Application No. 10/306,522	:	FOR PATENT TERM ADJUSTMENT
Filed: November 27, 2002	:	
Attorney Docket No. C1039.70068US00	:	

This is in response to the "Application for Patent Term Adjustment Under 37 CFR §1.705" filed October 1, 2009. Applicants request the initial determination of patent term adjustment be corrected from five hundred fifteen (515) days to one thousand one hundred twenty-three (1,123) days.

The request for reconsideration of the initial determination of patent term adjustment is **granted to the extent indicated herein**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is 381 days. A copy of the updated PALM screen showing the correct determination is enclosed.

On July 1, 2009, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised of a patent term adjustment to date of 515 days. In response, Applicants timely filed this application for patent term adjustment with payment of the issue fee on October 1, 2009.

Applicants assert the patent term adjustment should be increased by 1,377 days for Office delay under 35 U.S.C. § 154(b)(1)(B) ("B delay").

Applicants assert a reply filed November 1, 2007, should have resulted in a reduction of 19 days instead of 50 days.

Pursuant to Applicants' duty of good faith and candor to the Office, Applicants assert a reduction of 46 days may be appropriate as a result of an Information Disclosure Statement ("IDS") filed December 17, 2007

Issue 1

To the extent applicants request reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the request is premature.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See 37 C.F.R. § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the 37 C.F.R. § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 C.F.R. § 1.702(a)(4) or applicant delay under 37 C.F.R. § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 C.F.R. § 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature.

Rather than file an application for patent term adjustment under 37 C.F.R. § 1.705(b) contesting the 37 C.F.R. § 1.702(b) calculation at the time of the mailing of the notice of allowance, an applicant may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 C.F.R. § 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 C.F.R. § 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 C.F.R. § 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 C.F.R. § 1.705(d) and must include payment of the required fee under 37 C.F.R. § 1.18(e).

[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.

Issue 2

The third page of the petition states,

> A delay of 50 days resulting from the response filed on 11/01/2007 was also attributed to Applicant. However, the response filed by Applicant on 11/01/2007 was only 19 days after the expiration of the 3 month period of time (09/12/07) following the mailing of the Final Office Action on 06/12/200[7].

Although the petition states the November 1, 2007 reply was filed only 19 days after September 12, 2007, the actual difference between the two dates is 50 days.

A review of the electronic application file indicates the reply to the June 12, 2007 Office action was filed November 2, 2007, not November 1, 2007. As a result, the Office should have entered a reduction of 51 days instead of 50 days.

In view of the prior discussion, the 50-day reduction has been removed and a 51-day reduction has been entered.

Issue 3

Per 37 C.F.R. § 1.704(c)(8), circumstances that will result in a reduction in the period of adjustment include:

> Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed.

Applicants indicate an IDS was filed on December 17, 2007, after Appellant filed a reply on November 1, 2007, to an Office action. Applicants assert a 46-day reduction appears to be appropriate under 37 C.F.R. § 1.704(c)(8).

The record fails to indicate the examiner requested the IDS and the IDS was not accompanied by a statement under 37 C.F.R. § 1.704(d). Therefore, a reduction should have been entered under 37 C.F.R. § 1.704(c)(8).

As previously stated, the reply to the June 12, 2007 Office action was filed on November 2, 2007, not November 1, 2007. As a result, a 45-day reduction is appropriate.

In view of the prior discussion, the Office has entered a 45-day reduction for the December 17, 2007 IDS.

Issue 4

37 C.F.R. § 1.704(c)(7) states,

> [If] a reply having an omission (§1.135(c)) [is filed], ... the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed.

Applicants filed a reply to an Office action on September 21, 2006. On November 28, 2006, the Office mailed a Notice of Non-Compliant Amendment. A new amendment was filed December 18, 2006.

The number of days beginning on September 22, 2006, the day after the date the reply having an omission was filed, and ending on December 18, 2006, the date a reply correcting the omission was filed, is 88 days.

In view of the prior discussion, the Office has entered a reduction of 88-days under 37 C.F.R. § 1.704(c)(7).

Conclusion

The Office has replaced the 50-day reduction for delay in responding to the June 12, 2007 Office action with a 51-day reduction.

The Office has entered a reduction of 45 days under 37 C.F.R. § 1.704(c)(8) as a result of the IDS filed December 17, 2007.

The Office has entered a reduction of 88 days under 37 C.F.R. § 1.704(c)(7) as a result of the filing of a reply with an omission on September 21, 2006.

As of the date of the mailing of the Notice of Allowance, the patent term adjustment is 381 days which is 754 days of Office delay under 37 C.F.R. § 703(a) reduced by 373 days (64 + 88 + 51 + 45 + 94 + 31) of delay under 37 C.F.R. § 704(c).

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

Applicants are reminded that any delays by the Office pursuant to 37 C.F.R. §§ 1.702(a)(4) and 1.702(b) and any applicant delays under 37 C.F.R. § 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Anthony Knight
Supervior
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Day : Monday
Date: 3/22/2010

PALM INTRANET

Time: 14:15:53

PTA Calculations for Application: 10/306522			
Application Filing Date:	11/27/2002	PTO Delay (PTO):	754
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	239
Post-Issue Petitions:	0	Total PTA (days):	381
PTO Delay Adjustment:	-134		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
87	03/22/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		134	
71	07/01/2009	MAIL NOTICE OF ALLOWANCE			
70	07/01/2009	ISSUE REVISION COMPLETED			
69	07/01/2009	DOCUMENT VERIFICATION			
68	07/01/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
67	07/01/2009	EXAMINER'S AMENDMENT COMMUNICATION			
66	07/01/2009	NOTICE OF ALLOWABILITY			
65	06/11/2009	DATE FORWARDED TO EXAMINER			
64	06/11/2009	MAIL APPEALS CONF. REJ. WITHDRAWN			
63	06/05/2009	DATE FORWARDED TO EXAMINER			
62	06/02/2009	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
61	05/28/2009	PRE-APPEALS CONFERENCE DECISION - REJECTION WITHDRAWN			
60	04/16/2009	REQUEST FOR PRE-APPEAL CONFERENCE FILED			
59	04/16/2009	NOTICE OF APPEAL FILED		31	57
58	04/16/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
57	12/16/2008	MAIL FINAL REJECTION (PTOL - 326)			
56	12/15/2008	FINAL REJECTION			
55	10/07/2008	DATE FORWARDED TO EXAMINER			
54	09/08/2008	RESPONSE AFTER NON-FINAL ACTION		94	51
53	09/08/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
52	09/08/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
51	03/06/2008	MAIL NON-FINAL REJECTION	5		42

50	02/27/2008	NON-FINAL REJECTION			
49	12/17/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
48	12/17/2007	REFERENCE CAPTURE ON IDS			
47	12/17/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
46	12/17/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
45	12/12/2007	DATE FORWARDED TO EXAMINER			
44	11/01/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
43	12/12/2007	DATE FORWARDED TO EXAMINER			
42	11/01/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		50	38
41	12/12/2007	DISPOSAL FOR A RCE / CPA / R129			
40	11/01/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
39	11/02/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
38	06/12/2007	MAIL FINAL REJECTION (PTOL - 326)	55		35
37	06/11/2007	FINAL REJECTION			
36	01/05/2007	DATE FORWARDED TO EXAMINER			
35	12/18/2006	RESPONSE AFTER NON-FINAL ACTION			
34	11/28/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
33	11/27/2006	MISCELLANEOUS ACTION WITH SSP			
32	09/25/2006	DATE FORWARDED TO EXAMINER			
31	09/21/2006	RESPONSE AFTER NON-FINAL ACTION		64	29
30	09/21/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	04/19/2006	MAIL NON-FINAL REJECTION			
28	04/17/2006	NON-FINAL REJECTION			
27	01/15/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	02/07/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	02/13/2006	DATE FORWARDED TO EXAMINER			
24	02/02/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
23	02/02/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
22	12/21/2005	MAIL RESTRICTION REQUIREMENT	694		-1

21	12/12/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
20	06/30/2005	CASE DOCKETED TO EXAMINER IN GAU			
19	01/15/2004	REFERENCE CAPTURE ON IDS			
18.7	01/15/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	01/15/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	10/07/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16.7	02/07/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	02/07/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	07/31/2003	CASE DOCKETED TO EXAMINER IN GAU			
14	11/27/2002	PRELIMINARY AMENDMENT			
13	05/08/2003	CASE DOCKETED TO EXAMINER IN GAU			
12	04/11/2003	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
11	03/25/2003	APPLICATION DISPATCHED FROM OIPE			
10	03/12/2003	APPLICATION IS NOW COMPLETE			
9	03/03/2003	ADDITIONAL APPLICATION FILING FEES			
8	03/03/2003	OMMITED SPECIFICATION PAGES. APPLICANT HAS PETITIONED THAT THE FILING DATE NOT BE CHANGED AND THE P			
7	01/29/2003	NOTICE OF OMITTED ITEMS			
5	01/07/2003	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
4	01/06/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
3	12/09/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	11/27/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	11/27/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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1900 East Ninth Street
Cleveland, OH 44114

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NOV 08 2005

TECHNOLOGY CENTER 2100

In re Application of: Meredith)
Application No.: 10/306,531)
Filed: November 27, 2002) **DECISION ON PETITION TO**
Attorney Docket No.: MS147246.2) **ACCEPT CORRESPONDENCE AS**
(MSFTP103USA)) **TIMELY FILED UNDER 37 CFR §1.8**
For: XML-BASED REPRESENTATION)
OF MOBILE PROCESS CALCULI)

This is a decision on the petition filed November 23, 2004 to vacate an Office action mailed November 10, 2004 and to enter a preliminary amendment filed June 4, 2003. The petition is being treated as a petition to accept correspondence as having been timely filed under 37 CFR § 1.8(b).

As review of the file record indicates that a non-final Office action was mailed November 10, 2004. Petitioner indicates that prior to issuance of the non-final Office action of November 10, 2004, a timely filed preliminary amendment was submitted on June 4, 2003.

In considering petitioners' submission under 37 CFR § 1.8(b), the correspondence will be considered timely filed if petitioners meet at least three conditions:

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 that attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The Petition and evidence submitted November 23, 2004, includes: prompt notification to the Office after becoming aware that the Office did not receive the preliminary amendment filed June 4, 2004 (i.e. petition filed November 23, 2004, 13 days after receipt of the November 10,

2004 Office action); a copy of the previously mailed correspondence with June 4, 2003 certificate of facsimile transmission (37 CFR §1.8(a)); as well as a copy of the USPTO auto-reply facsimile transmission confirming receipt of the preliminary amendment on June 4, 2003 by the USPTO.

In view of the above stated reasons, the preliminary amendment submitted on June 4, 2003 is hereby accepted since the Office apparently never received or misplaced the response originally submitted.

The petition is **GRANTED**.

This application file is being forwarded to the Group technical support staff to **ENTER** the preliminary amendment originally filed June 4, 2003 (copy dated November 23, 2004). From there, the application file will be forwarded to the examiner with instructions to **VACATE** the previous Office action mailed November 10, 2004 and for appropriate action in consideration of the preliminary amendment, in due course.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(571) 272-3595

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/306,536	11/27/2002	Yong Yan	100203075-1	8432

7590 04/18/2008
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER
KELLEY, CHRISTOPHER S

ART UNIT	PAPER NUMBER
2623	

MAIL DATE	DELIVERY MODE
04/18/2008	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be 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 dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☒ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Tammy F. Kamlh

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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OFFICE OF PETITIONS

In re Application of:
Abraham Mittelman and
Darja Kanduc
Application No. 10/306,541
Filed: November 25, 2002
Title of Invention: ANTIGENS

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to a petition under 37 CFR 1.47(a), filed August 25, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on November 25, 2002, without an oath or declaration. This Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice") on January 23, 2003, requiring, *inter alia*, a properly signed oath or declaration and a late filing fee, oath or declaration and surcharge.

In response to the Notice, Applicant files the instant petition wherein Applicant avers that the nonsigning inventor could not be reached for signature. The petition provides, as a last known address, the University of Bari. Finally, the petition avers that a Declaration and Power of Attorney are attached to the petition; however, the application file does not contain a Declaration and Power of Attorney.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1), (2) and (4) as set forth above.

As to item (1), the petition states that the nonsigning inventor cannot be located. This assertion is not supported by a statement of facts. Accord MPEP 409.03(d).

Petitioner is advised that 37 CFR 1.47(a) 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.

If an inventor is unavailable (cannot be reached), while it is not required that the application be mailed, Petitioner must establish the exercise of diligent effort in trying to find or reach the nonsigning inventor. A statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor. Emphasis supplied. See, MPEP § 409.03(d). At the very least, an Internet search, or a search of telephone directories should be undertaken of the regions where it is suspected the non-signing inventor may reside. Copies of the results of such searches must be referred to in any renewed petition. *It is important that the forthcoming communication contain statements of fact as opposed to conclusions.* (Emphasis supplied).

As to item (2), Applicant has failed to provide an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116. A properly executed oath or declaration is required.

As to item (4), the last known address of the nonsigning inventor, as provided in the statement of last known address, should be the address at which the inventor customarily receives mail. *See*, MPEP 605.03.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA 22202-3113

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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In re Application of:
Abraham Mittelman and
Darja Kanduc
Application No. 10/306,541
Filed: November 25, 2002
Title of Invention: ANTIGENS

DECISION REFUSING
STATUS
UNDER 37 CFR 1.47(a)

This is in response to a petition under 37 CFR 1.47(a), filed August 25, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on November 25, 2002, without an oath or declaration. This Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice") on January 23, 2003, requiring, *inter alia*, a properly signed oath or declaration and a late filing fee, oath or declaration and surcharge.

In response to the Notice, Applicant files the instant petition wherein Applicant avers that the nonsigning inventor could not be reached for signature. The petition provides, as a last known address, the University of Bari. Finally, the petition avers that a Declaration and Power of Attorney are attached to the petition; however, the application file does not contain a Declaration and Power of Attorney.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1), (2) and (4) as set forth above.

As to item (1), the petition states that the nonsigning inventor cannot be located. This assertion is not supported by a statement of facts. Accord MPEP 409.03(d).

Petitioner is advised that 37 CFR 1.47(a) 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.

If an inventor is unavailable (cannot be reached), while it is not required that the application be mailed, Petitioner must establish the exercise of diligent effort in trying to find or reach the nonsigning inventor. A statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor. Emphasis supplied. See, MPEP § 409.03(d). At the very least, an Internet search, or a search of telephone directories should be undertaken of the regions where it is suspected the non-signing inventor may reside. Copies of the results of such searches must be referred to in any renewed petition. *It is important that the forthcoming communication contain statements of fact as opposed to conclusions.* (Emphasis supplied).

As to item (2), Applicant has failed to provide an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116. A properly executed oath or declaration is required.

As to item (4), the last known address of the nonsigning inventor, as provided in the statement of last known address, should be the address at which the inventor customarily receives mail. *See*, MPEP 605.03.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA 22202-3113

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

12354/4

APR 1 2 2004
PATENT & TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

Paper No. 8

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NOV 0 3 2003

OFFICE OF PETITIONS

In re Application of:	:	
Abraham Mittelman and	:	
Darja Kanduc	:	
Application No. 10/306,541	:	DECISION REFUSING
Filed: November 25, 2002	:	STATUS
Title of Invention: ANTIGENS	:	UNDER 37 CFR 1.47(a)

This is in response to a petition under 37 CFR 1.47(a), filed October 20, 2003, noting joinder of an inventor.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on November 25, 2002, without an oath or declaration. This Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice") on January 23, 2003, requiring, *inter alia*, a properly signed oath or declaration and a late filing fee, oath or declaration and surcharge.

Applicant filed a petition under 37 CFR 1.47(a) to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor, on August 25, 2003. That petition was dismissed in a Decision mailed September 29, 2003, for failing to meet the requirements of a grantable petition under 37 CFR 1.47(a).

In response to the Decision dismissing petition, Applicant files the instant petition and executed oath or declarations. The

first oath or declaration, signed by inventor Abraham Mittelman, designates both inventors; however, the second oath or declaration, signed by inventor Darja Kanduc, only lists inventor inventor Darja Kanduc.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (2) as set forth above.

As to item (2), Petitioner has failed to provide an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116. As required by 37 CFR 1.63, the (single) oath or declaration must identify each inventor. "When joint inventors execute separate oaths or declarations, each oath or declaration should make reference to the fact that the affiant is a joint inventor *together with each of the other inventors indicating them by name.*" MPEP § 602. (Emphasis supplied).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 11

KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

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APR 2 8 2004
OFFICE OF PETITIONS

In re Application of
Abraham Mittelman and
Darja Kanduc
Application No. 10/306,541
Filed: November 25, 2002
Attorney Docket Number:
12354/4

ON PETITION

This is in response to the Petition Under 37 CFR § 1.47(a), filed April 12, 2004 in response to a Decision Refusing Status under 37 CFR 1.47(a), noting the joinder of the inventor.

In view of the joinder of the inventors, 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 returned to the Office if Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

Welsh & Katz, Ltd.
Eric D. Cohen
22nd Floor
120 South Riverside Plaza
Chicago, IL 60606

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APR 0 2 2003

OFFICE OF PETITIONS

In re Application of	:	
Peters	:	
Application No. 10/306,544	:	DECISION GRANTING
Filed: November 27, 2002	:	PETITION
Attorney Docket No. 87752	:	

This is a decision on the paper filed February 10, 2003, which is being treated as a petition filed under 37 CFR 1.53 to establish that the application is entitled to a filing date of November 27 , 2002, and to establish that 4 sheets of drawings were part of the originally filed application.

The petition under 37 CFR 1.53 is **granted**.

On November 27, 2002, the application was filed.

On January 16, 2003, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of drawings.

In response, the present petition was filed alleging that 4 sheets of drawings were deposited on November 27, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "4 sheets of informal drawings" on November 27, 2002.[1] Petitioner has also submitted a copy of the missing documentation- 4 sheets of drawings.

Upon review of the record, the drawings deposited on November 27, 2002, have not been located. However, the evidence is convincing that the application papers deposited on November 27, 2002, included 4 sheets of drawings, and that the drawings were subsequently misplaced in the PTO. Therefore, the application is complete and entitled to a filing date of November 27, 2002.

In view of the above, the petition is **granted**. The copy of the 4 sheets of drawings submitted with the petition will be used for examination purposes.

---

[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.

No petition fee is required for the instant petition, but $130 is due since the signed declaration was filed subsequent to the filing date. Therefore, the $130 petition fee will not be refunded but instead will be applied towards the $130 owed for the late declaration.

The Notice mailed January 16, 2003, 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 27, 2002, using the application papers filed on November 27, 2002, and the copy of 4 sheets of drawings filed on February 10, 2003.

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

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

THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

Mail Date: 04/21/2010

Applicant	: Sung-Won Lee	: DECISION ON REQUEST FOR
Patent Number	: 7583675	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/306,547	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/27/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1533** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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. 15

OPPENHEIMER WOLFF & DONNELLY, LLP (ACCENTURE)
PLAZA VII, SUITE 3300
45 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-1609

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JAN 2 0 2004

OFFICE OF PETITIONS

In re Application of
Reid, et al.
Application No.: 10/306,563
Filed: November 27, 2002
Attorney Docket No.: 60021-377501
For: ENSURING COMPLETENESS WHEN PUBLISHING TO A CONTENT MANAGEMENT SYSTEM

DECISION NOTING JOINDER OF INVENTOR & PETITION UNDER 37 CFR 1.47(A) DISMISSED AS MOOT

Papers filed on January 9, 2004 in reply to "Decision Refusing Status Under 37 CFR 1.47(a)" mailed on September 15, 2003, included a Declaration signed by the previously non-signing inventor, Gregory S. Reid, in compliance with 37 CFR 1.63, an application data sheet supplying full information for all joint inventors, and supplemental declarations signed by those inventors who had signed the original declaration, but not initialed and dated handwritten modifications to their respective identifying information.

Pursuant to petitioners' authorization, deposit account no. 50-1901 will be charged a $420.00 two month extension of time.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 9

OPPENHEIMER WOLFF & DONNELLY, LLP (ACCENTURE)
PLAZA VII, SUITE 3300
45 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-1609

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OFFICE OF PETITIONS

In re Application of
Reid, et al.
Application No. 10/306,563
Filed: November 27, 2002
Attorney Docket No. 60021-377501
For: ENSURING COMPLETENESS WHEN PUBLISHING TO A CONTENT MANAGEMENT SYSTEM

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed August 25, 2003 (certificate of mailing date August 20, 2003).

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on November 27, 2002 without an executed oath or declaration. Accordingly, on January 23, 2003, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration, a surcharge for its late filing. The Notice required petitioners to submit replacement drawings, also.

In response, on August 25, 2003 (certificate of mailing date August 20, 2003), a petition for a five month extension of time and required fee, 43 sheets of drawings, a declaration executed by 10 of 11 joint inventors, the surcharge, the petition fee, and the instant petition were filed. A statement of facts of Attorney Steven C. Lieske accompanies the petition. Mr. Lieske sets forth the last known address of the nonsigning inventor, Gregory S. Reid, and explains that Mr. Reid was e-mailed a copy of the application, declaration, and assignment, but Mr. Reid refused to sign declaration during a telephone conversation with Attorney Lieske on August 6 or 7, 2003.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
(2) an acceptable oath or declaration;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;

Applicant lacks item (2) set forth above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. See MPEP 409.03(b). The declaration does not list required information for the non-signing inventor. The non-signing inventor's name, citizenship, residence, and post office address must be included on the declaration. If the current residence and post office address is not known definitively, petitioners should use the last known address for the inventor.

In addition, the declaration contains noninitialed, nondated alterations Inventors Lane, Fenton, Shearing, and Forrester's respective information. 37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. The Office will not consider whether noninitialed and or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. See MPEP 605.04(a). An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of Mr. Reid is REQUIRED. See MPEP 409.03(a).

Regarding finances, pursuant to petitioners' authorization, deposit account no. 50-1901 will be charged a $130 petition fee.

The Office acknowledges receipt of a power of attorney filed with the instant petition. It would be improper to act on the power of attorney until 47 status is accorded to the application. As of now there is only a partial assignee. Once 47 status is granted, then the power of attorney will be addressed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450
Attn: E. Shirene Willis

By facsimile: (703) 308-6916
Attn: Office of Petitions - E. Shirene Willis

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202
Attn: E. Shirene Willis

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Accenture/Finnegan, Henderson,
Farabow, Garrett & Dunner, LLP
901 New York Avenue
Washington, DC 20001-4413

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OFFICE OF PETITIONS

In re Patent of Reid et al.	:	
Patent No. 7,502,997	:	DECISION ON REQUEST
Issue Date: March 10, 2009	:	FOR RECONSIDERATION OF
Application No. 10/306,563	:	PATENT TERM ADJUSTMENT
Filing Date: November 27, 2002	:	
Attorney Docket No. 10761.1442-00	:	

This is in response to the "Application for Patent Term Adjustment-Post Grant" filed May 11, 2009. Patentees request the determination of patent term adjustment indicated on the patent be corrected from two hundred forty-nine (249) days to five hundred seventy-one (571) days.

The request for reconsideration of the patent term adjustment indicated on the patent is **dismissed**.

The application matured into United States Patent No. 7,502,997 with a revised patent term adjustment of 249 days on March 10, 2009. This request for reconsideration was timely filed on Monday, May 11, 2009. Patentees assert the correct patent term adjustment is 571 days.

The number of days of A Delay (663 days) is not in dispute.

Patentees assert the number of days of B Delay is 255 days.

The application was filed November 27, 2002. A Request for Continued Examination was filed August 10, 2006.[1] Per 35 U.S.C. § 154(b)(1)(B)(i), delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") does not include "any time consumed by continued examination of the application requested by the applicant under section 132(b)." The B Delay ends on August 10, 2006, and is 256 days.

35 U.S.C. § 154(b)(2)(A) limits Office delay to the sum of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") and B Delay to the extent such periods of delay are not overlapping. Specifically, 35 U.S.C. § 154(b)(2)(A) states,

[1] The instant case does not contain any time periods falling under 35 U.S.C. §§ 154(b)(1)(B)(ii)-(iii).

> To the extent that time periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

Patentees do not dispute that the total period of Office delay is the sum of the period of A Delay and the period of B Delay to the extent the periods of delay do not overlap. However, patentees assert the period of overlap is 0 days. The Office contends the period of overlap is 256 days.

The Office has described its position regarding the proper interpretation of 35 U.S.C. § 154(b)(2)(A) as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period 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 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.[2]

In this case, the relevant time period when determining if periods of delay "overlap" is the time period from the filing date of the application, November 27, 2002, to the date a request for continued examination was filed, August 10, 2006.

The 256 days of B Delay overlap with 256 of the 577 days of A Delay accrued prior to the filing of the request for continued examination (RCE) attributable to grounds specified in 37 C.F.R. § 1.702(a)(1) (86 days of A delay accrued subsequent to the filing of the RCE). Since the 256 days of B delay overlap with 256 days of A Delay, the Office acted properly when the Office did not enter any additional days to the patent term adjustment for B Delay when issuing the patent.

Patentees cite the Memorandum and Order entered in *Wyeth v. Dudas*, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008) in support of their assertion an increase in patent term adjustment is appropriate. The Office has considered the memorandum and order. However, the

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[2] *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) (*quoting Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704, 21706 (April 22, 2004)). The Notice also provided a discussion of an example of the application of the overlap provision:

> A two month delay in issuing a first Office action (35 U.S.C. 154(b)(1)(A)(i)) and a two-month delay in issuing the patent (35 U.S.C. 154(b)(1)(B)) [are] considered overlapping delays, even though the two-month delay in issuing the first Office action occurred prior to three years (thirty-six months) after the application's filing date. This is because if the Office does not issue the patent until three years and two months (thirty-eight months) after its filing date, the relevant period in determining the Office delay in issuing the patent is not just the period between three years (thirty-six months) after the application's filing date and the date the patent issues (thirty-eight months after the application's filing date), but is the entire period between the application's filing date and the date the application issues.

Office is not persuaded that the Office's current and long standing interpretation of the statute is incorrect.

The Office's interpretation of 35 U.S.C. § 154(b)(2)(A) is consistent with the purpose of the statute. The language in 35 U.S.C. § 154(b)(2)(A) is the result of the passage of the American Inventors Protection Act, Pub. L. No. 106-113, §§ 4401, 113 Stat. 1501, 1501A-552 (1999). A section-by-section analysis of the American Inventors Protection Act, published in the Congressional Record at the request of Senator Lott, elaborated this limitation:

> [T]otal adjustments granted for restorations under (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 * * * and administrative delay under section 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.[3]

For the reasons previously discussed, the Office acted properly when it did not increase the patent term adjustment as a result of B Delay.

The Notice of Allowance mailed June 6, 2008, included a patent term adjustment which had been reduced by 67 days of Applicant Delay resulting from the filing of an Information Disclosure Statement ("IDS") filed April 28, 2008. The instant request states the amount of Applicant Delay in this case is 347 days instead of 414 days based on a calculation of Applicant Delay that does not include a 67-reduction for the April 28, 2008 IDS.

Patentees do not explicitly contend a 67-day reduction was inappropriate. Instead, patentees simply fail to raise the issue.

Patentees never filed a request under 37 C.F.R. §1.705(b) challenging the 67-day reduction. 37 C.F.R. §1.705(d) states,

> 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.

Patentees could have raised the issue of the 67-day reduction by filing a request under 37 C.F.R. §1.705(b). No application for patent term adjustment was filed after the mailing of the notice of allowance and prior to payment of the issue fee. The issue is untimely. Therefore, the Office will not consider the issue at this time and Applicant Delay will remain 414 days (347 days + 67 days).

For the reasons previously discussed, the patent term adjustment remains 249 days.

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

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[3] 145 Cong. Rec. S14,708, S14,718 (Nov. 17, 1999).

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Nancy Johnson
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. 9

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MINNEAPOLIS MN 55402-1609

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OFFICE OF PETITIONS

In re Application of
Lane, et al.
Application No. 10/306,564
Filed: November 27, 2002
Attorney Docket No. 60021-377601
For: SEARCHING WITHIN A CONTACT CENTER PORTAL

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed August 26, 2003 (certificate of mailing date August 22, 2003).

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on November 27, 2002 without an executed oath or declaration. Accordingly, on January 28, 2003, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration, a surcharge for its late filing. The Notice required replacement drawings also.

In response, on August 26, 2003 (certificate of mailing date August 22, 2003), a petition for a five month extension of time and required fee, 43 sheets of drawings, a declaration executed by 14 of 15 joint inventors, the surcharge, the petition fee, and the instant petition were filed. A statement of facts of Attorney Steven C. Lieske accompanies the petition. Mr. Lieske sets forth the last known address of the nonsigning inventor, Gregory S. Reid, and explains that Mr. Reid was e-mailed a copy of the application, declaration, and assignment, but Mr. Reid refused to sign declaration during a telephone conversation with Attorney Lieske on August 6 or 7, 2003.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
(2) an acceptable oath or declaration;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;

Applicant lacks item (2) set forth above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. See MPEP 409.03(b). The declaration does not list

required information for the non-signing inventor. The non-signing inventor's name, citizenship, residence, and post office address must be included on the declaration. If the current residence and post office address is not known definitively, petitioners should use the last known address for the inventor.

In addition, the declaration contains noninitialed, nondated alterations Inventors Lane, Farrell, Fenton, Shearing, Lingham, and Forrester's respective information.. 37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. The Office will not consider whether noninitialed and or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. See MPEP 605.04(a). An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of Mr. Reid is REQUIRED. See MPEP 409.03(a).

Regarding finances, pursuant to petitioners' authorization, deposit account no. 50-1901 will be charged a $130 petition fee, a $130 surcharge for filing a late declaration, and a $1,970 five month extension of time fee.

The Office acknowledges receipt of a power of attorney filed with the instant petition. It would be improper to act on the power of attorney until 47 status is accorded to the application. As of now there is only a partial assignee. Once 47 status is granted, then the power of attorney will be addressed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450
Attn: E. Shirene Willis

By facsimile: (703) 308-6916
Attn: Office of Petitions - E. Shirene Willis

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202
Attn: E. Shirene Willis

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 15

OPPENHEIMER WOLFF & DONNELLY, LLP (ACCENTURE)
PLAZA VII, SUITE 3300
45 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-1609

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OFFICE OF PETITIONS

In re Application of Reid, et al. Application No.: 10/306,564 Filed: November 27, 2002 Attorney Docket No.: 60021-377601 For: SEARCHING WITHIN A CONTACT CENTER PORTAL	DECISION NOTING JOINDER OF INVENTOR & PETITION UNDER 37 CFR 1.47(A) DISMISSED AS MOOT

Papers filed on January 9, 2004 in reply to "Decision Refusing Status Under 37 CFR 1.47(a)" mailed on September 15, 2003, included a Declaration signed by the previously non-signing inventor, Gregory S. Reid, in compliance with 37 CFR 1.63, an application data sheet supplying full information for all joint inventors, and supplemental declarations signed by those inventors who had signed the original declaration, but not initialed and dated handwritten modifications to their respective identifying information.

Pursuant to petitioners' authorization, deposit account no. 50-1901 will be charged a $420.00 two month extension of time.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Mailed: JUN 17 2004

spg
Paper Number 9

In re application of
Jeanne Saldanha Singh et al.
Serial No. 10/306,576
Filed: November 27, 2002
For: METHOD AND APPARATUS FOR ADHESIVELY SECURING INK JET PEN COMPONENTS USING THIN FILM ADHESIVES

DECISION ON PETITION

This is a response to the PETITION UNDER 37 C.F.R. §1.181 TO WITHDRAW HOLDING OF ABANDONMENT IN THE ALTERNATIVE, REVIVAL OF APPLICATION UNDER C.F.R. §1.137 filed February 27, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of February 24, 2004, for failure to timely file a proper reply to the Office letter of June 19, 2003, be withdrawn since the applicants did timely file a response thereto on August 26, 2003 by facsimile transmission to the USPTO. (A copy of the papers filed August 26, 2003 and a copy of the Facsimile Transmission Report indicating receipt of the facsimile transmission at the USPTO is attached to the instant petition.)

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicant's response was properly filed on August 26, 2003 by facsimile transmission as evidenced by the properly completed Certification of Facsimile Transmission attached to applicant's response and by the copy of the Facsimile Transmission report provided with the instant petition which indicates the successful transmission, to a USPTO facsimile telephone number (703-305-7718), of 13 pages. Therefore, 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 June 19, 2003 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 26, 2003 by facsimile transmission and a copy of which is provided as an attachment to the instant petition.

The Petition is **GRANTED**.

JStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Lexmark International, Inc.
740 West New Circle Rd.
Lexington KY 40550

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 7

OPPENHEIMER WOLFF & DONNELLY, LLP (ACCENTURE)
PLAZA VII, SUITE 3300
45 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-1609

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SEP 2 2 2003

OFFICE OF PETITIONS

In re Application of Gregory Reid, Timothy Ringo, David Lane, Elizabeth Lian, Daniel Farrell, Craig Fenton, Elise Shearing, Randy Bell, Sevasti Wong, Anthony Lingham, and Audrey Forrester Application No. 10/306,577 Filed: November 27, 2002 Attorney Docket No. 60021-376901 Title: DUAL INFORMATION SYSTEM FOR CONTACT CENTER USERS	DECISION REFUSING STATUS UNDER 37 CFR § 1.47(a)

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.47(a)," filed August 25, 2003.

Receipt of the power of attorney filed August 18, 2003, is acknowledged and made of record.

The petition is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. § 1.136(a).

The above-identified application was filed on November 27, 2002, without an executed oath or declaration. Accordingly, on January 24, 2003, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring submission of an executed oath or declaration and payment of the surcharge for late filing under § 1.16(e). This Notice set a two-month period for reply, with extensions of time obtainable under § 1.136(a).

In response, rule 47 applicants timely[1] filed the instant petition, along with payment of the petition fee[2] and of the late surcharge; and seven (7) declarations for patent, executed in combination, by joint inventors Ringo, Lane, Lian, Farrell, Fenton, Shearing, Bell, Wong, Lingham and Forrester on behalf of themselves and on behalf of non-signing inventor Reid[3]. On petition, applicants assert that status under § 1.47(a) is proper because inventor Reid refuses to sign the declaration.

A grantable petition under 37 C.F.R. § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or found, after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirements (2) and (4).

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. On petition, patent attorney Steven Lieske states that on August 6 or 7th, 2003, in their telephone conversation, inventor Reid expressly refused to sign the declaration. Attorney Lieske's statement further details the presentation of all of the application papers to inventor Reid. The petition includes payment of the petition fee and a statement of a last known business address of non-signing inventor Reid.

As to the deficiency in meeting requirement (2), the declaration is unacceptable as it does not include the residence and/or mailing address of inventor Reid. 37 CFR § 1.63(c) provides that unless such information is supplied on an application data sheet in accordance with § 1.76, the oath or declaration must also identify ... [t]he mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor. Furthermore, the declaration submitted includes non-initialed

---

[1] This reply was made timely by an accompanying petition (and fee) for extension of time within the fifth month.

[2] The required petition fee of $130 has been charged to Deposit Account No. 50-1901, as authorized.

[3] Petitioner also submitted 43 sheets of drawings as required by the Notice.

changes to the statutorily required citizenship information for many of the inventors. Rule 47 applicants are reminded that an oath or declaration with non-initialed changes is unacceptable. See § 1.52(c).

As to the deficiency in meeting requirement (4), an application filed pursuant to 37 CFR 1.47 must state the last known address of the non-signing inventor. That address should be the last known address at which the inventor customarily receives mail. See MPEP § 605.03. Ordinarily, the last known address will be the last known residence of the non-signing inventor. The evidence of record does not support a conclusion that inventor Reid customarily receives mail at Accenture LLP (which appears to be a division of the assignee company).

On renewed petition, a new oath or declaration properly executed by all available joint inventors on behalf of themselves and on behalf of non-signing inventor Reid, including the information required for inventor Reid; and a statement of the last known address of inventor Reid, should be supplied.

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
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
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. 13

OPPENHEIMER WOLFF & DONNELLY, LLP (ACCENTURE)
PLAZA VII, SUITE 3300
45 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-1609

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JAN 1 6 2004

OFFICE OF PETITIONS

In re Application of	:
Gregory Reid, Timothy Ringo,	: DECISION NOTING JOINDER
David Lane, Elizabeth Lian,	: OF INVENTOR AND PETITION
Daniel Farrell, Craig Fenton,	: UNDER 37 C.F.R. § 1.47(a)
Elise Shearing, Randy Bell,	: DISMISSED AS MOOT
Sevasti Wong, Anthony Lingham, and	:
Audrey Forrester	:
Application No. 10/306,577	:
Filed: November 27, 2002	:
Attorney Docket No. 60021-376901	:
Title: DUAL INFORMATION SYSTEM FOR	:
CONTACT CENTER USERS	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. § 1.47(a)," filed January 9, 2004.

The petition under § 1.47(a) is **DISMISSED AS MOOT**.

The above-identified application was filed on November 27, 2002, without an executed oath or declaration. In response to the Notice to File Missing Parts of Application mailed January 24, 2003, applicants filed the initial petition under § 1.47. The petition filed August 25, 2003, was dismissed because it did not include an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; or a statement of the last known address of the non-signing inventor (Decision mailed September 22, 2003).

On instant renewed petition, made timely by an accompanying petition for a two-month extension of time (and extension fee) applicants submitted a supplemental declaration executed by previously non-signing inventor Reid. In addition, as provided for in 37 CFR § 1.67(a)(3) and § 1.76, applicants submitted an application data sheet to cure deficiencies in the declaration.

In view of the joinder of inventor Reid, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered moot. This application does not have any Rule 1.47(a)

status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 13

OPPENHEIMER WOLFF & DONNELLY, LLP (ACCENTURE)
PLAZA VII, SUITE 3300
45 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-1609

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OFFICE OF PETITIONS

In re Application of Gregory Reid, Timothy Ringo, David Lane, Elizabeth Lian, Daniel Farrell, Craig Fenton, Elise Shearing, Randy Bell, Sevasti Wong, Anthony Lingham, and Audrey Forrester Application No. 10/306,577 Filed: November 27, 2002 Attorney Docket No. 60021-376901 Title: DUAL INFORMATION SYSTEM FOR CONTACT CENTER USERS	**CORRECTION** DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 C.F.R. § 1.47(a) DISMISSED AS MOOT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. § 1.47(a)," filed January 9, 2004.

This corrected decision is being issued to correct the destination to which this application is being forwarded from the Publishing Division to the Office of Initial Patent Examination.

The petition under § 1.47(a) is **DISMISSED AS MOOT**.

The above-identified application was filed on November 27, 2002, without an executed oath or declaration. In response to the Notice to File Missing Parts of Application mailed January 24, 2003, applicants filed the initial petition under § 1.47. The petition filed August 25, 2003, was dismissed because it did not include an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; or a statement of the last known address of the non-signing inventor (Decision mailed September 22, 2003).

On instant renewed petition, made timely by an accompanying petition for a two-month extension of time (and extension fee) applicants submitted a supplemental declaration executed by previously non-signing inventor Reid. In addition, as provided

for in 37 CFR § 1.67(a)(3) and § 1.76, applicants submitted an application data sheet to cure deficiencies in the declaration.

In view of the joinder of inventor Reid, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The application file is being forwarded to 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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE 9-2-09 Paper No.: _____

TO SPE OF ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/306579 Patent No.: 7298885

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Check COC thanks.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced; nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

Ennis Young
Certificates of Correction Branch
703-756-1542

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

/Samir A Ahmed/ 2624

SPE Art Unit

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Jose J. Garcia-Luna-Aceves	: DECISION ON REQUEST FOR
Patent Number	: 7580394	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/306,613	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/27/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1459** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WILDMAN HARROLD ALLEN & DIXON LLP
225 WEST WACKER DRIVE, SUITE 2800
CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of :
WIESNER, et al. :
Application No. 10/306,614 : DECISION ON PETITION
Filed: November 26,2002 : TO WITHDRAW
Attorney Docket No. **3026-24** : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 1, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **WILDMAN HARROLD ALLEN & DIXON, LLP** has been revoked by the assignee of the patent application on March 27, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **AXINN, VELTROP & HARKRIDER, LLP**
90 STATE HOUSE SQUARE
HARTFORD, CT 06103-3702

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

TOWNSEND AND TOWNSEND
AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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OCT 31 2006
OFFICE OF PETITIONS

In re Application of	:	
Andreas et al.	:	DECISION ON APPLICATION
Application No. 10/306,620	:	FOR
Filed: November 27, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No.021629-000210US	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT CORRECTION," filed March 24, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from two hundred forty-one (241) days to three hundred fifty-seven (357) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **three hundred fifty-seven (357)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 6, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 241 days. On March 24, 2006, applicants timely submitted the instant application for patent term adjustment[1]. Applicants dispute the reduction of 116 days associated with the filing of a response after non-final Office action received June 14, 2004. Applicants point out that the original Office action was re-mailed and the period for response

[1] PALM records indicate that the Issue Payment was filed on March 29, 2006.

restarted. Further, their response was filed within three months of the mailing date of the Office action as re-mailed on March 26, 2004.

Applicants state that the application is not subject to a terminal disclaimer.

In this instance, applicants are correct that any delay should be calculated based on the date of the Restarted Response Period and not based on the date of the mailing of the original Office action. As their response was received within three months of the Letter Restarting Period for Response (the re-mailed Office action), there was no applicant delay within the meaning of §1.704(b).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 357 days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the 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 REVISED PAIR Screen

Day : Thursday
Date: 10/26/2006

PALM INTRANET

Time: 09:05:56

PTA Calculations for Application: 10/306620			
Application Filing Date:	11/27/2002	PTO Delay (PTO):	357
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	116
Post-Issue Petitions:	0	Total PTA (days):	357
PTO Delay Adjustment:	116		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
50	10/26/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	116		
39	02/06/2006	MAIL NOTICE OF ALLOWANCE	357		31
37	02/01/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
36	11/04/2004	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
35	11/01/2004	ISSUE REVISION COMPLETED			
34	10/27/2004	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
33	11/01/2004	NOTICE OF ALLOWABILITY			
32	10/18/2004	DATE FORWARDED TO EXAMINER			
31	10/14/2004	AMENDMENT AFTER FINAL REJECTION			
30	08/11/2004	MAIL FINAL REJECTION (PTOL - 326)			
29	08/11/2004	FINAL REJECTION			
28	05/28/2004	RULE 47 / 48 CORRECTION OF INVENTORSHIP PAPERS FILED			
27	07/09/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
26	07/09/2004	DATE FORWARDED TO EXAMINER			
25	06/14/2004	RESPONSE AFTER NON-FINAL ACTION		116	17
24	08/18/2003	REFERENCE CAPTURE ON IDS			
23	04/21/2003	REFERENCE CAPTURE ON IDS			
22	06/14/2004	WORKFLOW INCOMING AMENDMENT IFW			
21	05/28/2004	WORKFLOW INCOMING PETITION IFW			
20	03/26/2004	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
19	03/22/2004	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			

18	12/08/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	11/19/2003	MAIL NON-FINAL REJECTION			
16	11/14/2003	NON-FINAL REJECTION			
15	10/29/2003	CASE DOCKETED TO EXAMINER IN GAU			
14	08/18/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	04/21/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	05/12/2003	CASE DOCKETED TO EXAMINER IN GAU			
11	04/22/2003	APPLICATION DISPATCHED FROM OIPE			
10	04/09/2003	APPLICATION IS NOW COMPLETE			
7	03/24/2003	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
6	03/24/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	03/24/2003	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
4	01/17/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
2	12/03/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/27/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 08, 2007

TO SPE OF : ART UNIT 3738

10/306620

SUBJECT : Request for Certificate of Correction on Patent No.: 7147656 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** J.D — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

[signature] 3738

SPE **Art Unit**

I hereby certify that this correspondence is being filed via EFS-Web with the United States Patent and Trademark Office on January 22, 2007.

TOWNSEND and TOWNSEND and CREW LLP

By: JoAnn Evangelista
JoAnn Evangelista

PATENT
Attorney Docket No.:021629-000210US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Bernard Andreas et al.

Patent No.: US 7,147,656 B2

Application No.: 10/306,620

Filed: November 27, 2002

For: APPARATUS AND METHODS FOR DELIVERY OF BRAIDED PROSTHESES

Customer No.: 20350

Confirmation No.: 6819

Examiner: Suzette J. Jackson

Art Unit: 3738

REQUEST FOR CERTIFICATE OF CORRECTION under 37 CFR § 1.322(a)(1)

Sir:

Pursuant to 37 CFR § 1.322(a)(1) Applicants submit a Request for Certificate of Correction correcting printing errors made at the time of printing of the above-identified patent. Inventor Allan Will should be added to the patent. This change was originally submitted to the PTO on May 25, 2004 and can be seen on PAIR as "Request under Rule 48 correcting inventorship" dated May 28, 2004. Applicants believe that no fee is required for this Certificate of Correction because the printing error was made by the U.S. Patent Office. The desired corrections are set forth on form PTO/SB/44, enclosed.

Respectfully submitted,

Douglas Portnow
Reg. No. 59,660

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
Tel (650) 326-2400 / Fax (650) 326-2422
d3p/ / 60963424 v1

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,147,656 B2

DATED : December 12, 2006

INVENTOR(S) : Bernard Andreas et al.

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

On the Face Sheet:

Please replace paragraph (75) with the following:

(75) Inventors: **Bernard Andreas**, Redwood City, CA (US); **Ron French**, Santa Clara, CA (US); **Mark E. Deem**, Mountain View, CA (US); **Hanson S. Gifford, III**, Woodside, CA (US); **Allan Will**, Atherton, CA (US)

MAILING ADDRESS OF SENDER: Douglas Portnow
Townsend and Townsend and Crew LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111

PATENT NO. 7,147,656 B2

No. of additional copies: 10

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

60963457 v1

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.
10/306,622	11/27/2002	Bernard Andreas	021629-000110US	6816

47917 7590 09/14/2007
TOWNSEND AND TOWNSEND AND CREW, LLP
(CLIENT NO 021629-000000)
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER
PRONE, CHRISTOPHER D

ART UNIT	PAPER NUMBER
3738	

MAIL DATE	DELIVERY MODE
09/14/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.go

In re Patent No. ANDREAS ET AL. Issue Date: September 18, 2007 Appl No.: 10/306,622 Filed: November 27, 2002 For: APPARATUS AND METHODS FOR DELIVERING COILED PROSTHESES	**DECISION GRANTING PETITION** *37 CFR 1.324*

This is a decision on the petition under 37 CFR 1.48, filed August 2, 2007. In view of the fact that the patent has already issued, the request under 37 CFR 1.48 has been treated as a petition to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Corrine M. McDermott
Supervisory Patent Examiner
Art Unit 3738
Patent Examining Group 3700

TOWNSEND AND TOWNSEND AND CREW, LLP
(CLIENT NO 021629-000000)
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

DATE: September 4, 2007
TO: Certificates of Correction Branch
FROM: Corrine M. McDermott
SPE, Art Unit 3738
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,270,668 as specified on the attached Certificate.

Corrine M. McDermott, SPE
Art Unit 3738

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,270,668
Patented: September 18, 2007

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Bernard Andreas, Ron French, Allan Will

Corrine M. McDermott
Supervisory Patent Examiner
Art Unit 3738

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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MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA-FOURTH FLOOR
720 WATER STREET
TOLEDO OH 43604

COPY MAILED

FEB 1 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Depue et al.	:	
Application No. 10/306,634	:	ON PETITION
Filed: November 27, 2002	:	
Attorney Docket No. 1-73514	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 30, 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 March 23, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on June 24, 2004. A Notice of Abandonment was mailed October 29, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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OCT 04 2007

OFFICE OF PETITIONS

In re Application of	:	
Krish Chaudhury et al	:	
Application No. 10/306,635	:	DECISION DISMISSING PETITION
Filed: November 27, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 07844-552001 / P507	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 1, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, 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**.

In this case, the petition was not received in the Office of Petitions for consideration until October 2, 2007. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $810 filing fee and the $130 petition fee submitted are unnecessary and will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i).

Petitioner is advised, that while petitions to withdraw from issue may be mailed to the Commissioner for Patents, as was done in this case, applicants were cautioned to hand carry or fax petitions to withdraw from issue directly to the Office of Petitions. *See* MPEP § 1308.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petition Examiner
Office of Petitions

Electronic Acknowledgement Receipt

EFS ID:	2266353
Application Number:	10306635
International Application Number:	
Confirmation Number:	6797
Title of Invention:	DYNAMIC ENABLING OF FUNCTIONALITY IN ELECTRONIC DOCUMENT READERS
First Named Inventor/Applicant Name:	Krish Chaudhury
Customer Number:	21876
Filer:	Daniel J. Burns/Carlos Brasil
Filer Authorized By:	Daniel J. Burns
Attorney Docket Number:	07844-552001 / P507
Receipt Date:	01-OCT-2007
Filing Date:	27-NOV-2002
Time Stamp:	19:59:51
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment was successfully received in RAM	$940
RAM confirmation Number	3683
Deposit Account	061050

File Listing:

Document Number	Document Description	File Name	File Size(Bytes) /Message Digest	Multi Part /.zip	Pages (if appl.)

1		07844_552001_Pet_Withdraw_Issue.pdf	162934 437113404959cc21e967b50461d02a7 87856b13	yes	4
	Multipart Description/PDF files in .zip description				
	Document Description		**Start**	**End**	
	Petition to Withdraw from Issue		1	1	
	Request for Continued Examination (RCE)		2	2	
	Information Disclosure Statement (IDS) Filed		3	4	
Warnings:					
Information:					
2	Fee Worksheet (PTO-06)	fee-info.pdf	8366 41cf266a38f21cdd6fc496043e14e6e9a 643a67c	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	171300		

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

UNITED STATES PATENT AND TRADEMARK OFFICE

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RONALD O. NEERINGS
TEXAS INSTRUMENTS INCORPORATED
M/S 3999
P.O. BOX 655474
DALLAS, TX 75265

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APR 12 2007

OFFICE OF PETITIONS

In re Application of	:	
Robert B. Staszewski et al	:	
Application No. 10/306,655	:	ON PETITION
Filed: November 27, 2002	:	
Attorney Docket No. TI-33500	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 15, 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 March 27, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 28, 2006.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2611 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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DALLAS TX 75265

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SEP 2 9 2008

OFFICE OF PETITIONS

In re Application of :
Robert B. STASZEWKI et al. :
Application No. 10/306,655 :
Filed: November 27, 2002 :
Attorney Docket No. TI-33500 :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 02, 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, February 20, 2008, which set a shortened statutory period for reply of three (3) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 21, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of February 20, 2008 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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272- 4231.

The application file is being referred to Technology Center AU 2611 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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JUN 13 2006

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

In re Application of	:
Robert H. Brown, Jr., et al	:
Serial No.: 10/306,662	: PETITION DECISION
Filed: November 27, 2002	:
Attorney Docket No.: 3681.1000-001	:

This is in response to the petition under 37 CFR 1.182, which is being treated as a petition under 37 CFR 1.181, filed December 30, 2005, requesting the Office to pass the application to issue.

The file history shows that the examiner mailed a first Office action to applicants on September 5, 2003, setting a three month shortened statutory period for reply. Applicants replied on February 5, 2004, with an amendment. Upon filing of the reply the application file and all papers associated with it, including the reply was (or should have been) forwarded to a contractor for scanning into an Image File Wrapper (IFW) prior to the examiner taking the application up for further action. In this process some of the application papers were inadvertently misplaced. Upon inquiry as to the status of the application the Office undertook reconstruction of the file with applicants' assistance. Applicants filed copies of the missing papers in May, 2005. Thereafter the papers were converted to an image file wrapper. The application was then forwarded to the examiner for further action. Upon review of the papers it was initially perceived that some papers were missing and an effort was made to determine what they were.

Applicants subsequently inquired as to the status of the application in December, 2005 and then filed this petition requesting the Office to take action to pass the application to issue inasmuch as the examiner has earlier indicated the application was in condition for allowance.

A further review of the application file has been made and it has been determined that it is now complete. In view thereof the examiner will take the application up for immediate action following the mailing of this petition decision. The Office delay is sincerely regretted.

The petition is **GRANTED**.

There is no fee for this petition and the petition fee paid of $400.00 will be credited to applicants' Deposit Account No. 08-0380, as directed.

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.

John L. LeGuyader
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

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DEC 05 2007

OFFICE OF PETITIONS

In re Application No. 10/306,672	:	
In re Application of Katz	:	DECISION ON REQUEST
Filed: November 27, 2002	:	FOR
Title: METHODS OF TREATING	:	RECONSIDERATION OF
CEREBRAL ISCHEMIA	:	PATENT TERM ADJUSTMENT

This is a decision on the "STATEMENT OF THE CORRECT PATENT TERM ADJUSTMENT" filed on November 1, 2007, which is properly treated as a request for reconsideration of the patent term adjustment. Patentees request that the patent term adjustment indicated in the patent be corrected from one hundred and thirty-nine (139) to two hundred and ninety-five (295) days.

The present application for patent term adjustment requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance as it relates to the Office's failure to issue the patent within 3 years of the filing date.

Knowledge of the actual date the patent issues is ordinarily required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See 37 C.F.R. § 1.703(b). This holds true even where a Request for Continued Examination (RCE) has been filed. Thus, this period of adjustment is reflected in the revised patent term adjustment indicated on the patent.

Since the patent has not yet issued, this petition will be held in abeyance until after issuance of the patent.

Patentee is given **TWO MONTHS from the issue date of the patent** to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Patentee may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of 37 C.F.R. § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

However, if an application is entitled to an adjustment under 35 U.S.C. § 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. § 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. § 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. § 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application that overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. §§ 154(b)(1)(B), 154(b)(2)(A), and 37 C.F.R. § 1.703(f). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004).

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Paul Shanoski, Senior Attorney, at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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

OPPENHEIMER WOLFF & DONNELLY, LLP (ACCENTURE)
PLAZA VII, SUITE 3300
45 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-1609

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NOV 03 2003

OFFICE OF PETITIONS

In re Application of:	:	
Reid et al.	:	DECISION REFUSING
Application No. 10/306,705	:	STATUS
Filed: November 27, 2002	:	UNDER 37 CFR 1.47(a)
Title of Invention: DYNAMICALLY	:	
ORDERING SOLUTIONS	:	

This is in response to a petition under 37 CFR 1.47(a), filed August 18, 2003 (Certificate of Mailing dated August 13, 2003), to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on November 27, 2002, without an oath or declaration. This Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice") on January 17, 2003, requiring, *inter alia*, a properly signed oath or declaration and a late filing fee, oath or declaration and surcharge.

In response to the Notice, Applicant files the instant petition wherein Applicant avers that the nonsigning inventor could not be reached for signature. The petition provides, as a last known address, a business address and an e-mail address.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (4) as set forth above.

As to item (4), the last known address of the nonsigning inventor, as provided in the statement of last known address, should be the inventor's most recent home address. *See*, MPEP 605.03 ("the inventor's most recent home address must be given in order for the Office to communicate directly with the inventor as necessary").

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA 22202-3113

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 7

OPPENHEIMER WOLFF & DONNELLY, LLP (ACCENTURE)
PLAZA VII, SUITE 3300
45 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-1609

COPY MAILED

DEC 15 2003

OFFICE OF PETITIONS

In re Application of:	:	DECISION NOTING
Reid et al.	:	JOINDER of
Application No. 10/306,705	:	INVENTOR
Filed: November 27, 2002	:	
Title of Invention: DYNAMICALLY	:	
ORDERING SOLUTIONS	:	

This is in response to the Request for Withdrawal of Petition, filed December 8, 2003, noting the joinder of the inventor.

The petition is **dismissed as inappropriate**.

A petition under 37 CFR 1.47(a), filed on August 18, 2003, was dismissed by this Office in a Decision mailed on November 11, 2003. Because the petition was filed and a decision on the petition rendered, it is inappropriate to withdraw the petition.

However, in view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and Reconsideration under 37 CFR 1.47 is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The Declaration/Power of Attorney has been entered and made of record.

This application is being forwarded to Technology Center Art Unit 1761 for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA22313-1450
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MUIRHEAD AND SATURNELLI, LLC
200 FRIBERG PARKWAY, SUITE 1001
WESTBOROUGH MA 01581

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SEP 17 2007

OFFICE OF PETITIONS

In re Application of
Natan Vishlitzky et al.
Application No. 10/306,706
Filed: November 27, 2002
Attorney Docket No. EMS-03704

ON PETITION

This is a decision on the petition filed August 23, 2007 to withdraw the holding of abandonment under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition under 37 CFR 1.181 is **GRANTED**.

The above-referenced application was held abandoned on March 28, 2007, for failure to timely file a response to the Final Office Action mailed December 27, 2006. Accordingly, a Notice of Abandonment was mailed August 13, 2007.

Petitioner claims that the Final Office Action mailed December 27, 2006 was never received and that in spite of an address change on April 26, 2006, the Final Office was mailed to an incorrect address.

A review of the file reveals that petitioners are in fact correct. An address change was filed April 26, 2006 and is of record, but while the address change was received, the address information was not updated by the USPTO prior to the mailing of the Final Office Action on December 27, 2006. Furthermore, the Final Office Action was returned to the USPTO as undeliverable. Thus, it was mailed to the wrong address and as petitioners claim, not received.

In view of the above, the Notice of Abandonment is withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 2167 for a re-mailing of the Final Office Action previously mailed on December 27, 2007.

Inquiries regarding this decision may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 3

MICHAEL BEST & FRIEDRICH, LLP
100 E WISCONSIN AVENUE
MILWAUKEE WI 53202

COPY MAILED

MAR 1 4 2003

OFFICE OF PETITIONS

In re Application of :
Tuchler, et al. :
Application No.10/306,713 : DECISION GRANTING PETITION
Filed: November 27, 2002 :
Attorney Docket No. 86399-9021-00 :

This is a decision on the petition filed December 24, 2002, under 37 CFR 1.10(c) requesting that the above-cited application be accorded a filing date of November 27, 2002.

Petitioner alleges that the application was retrieved and accepted by the Express Mail pick-up service on November 27, 2002. In support, the petition is accompanied by a copy of the "Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post" showing a receipt number of EV222583975 (the same Express Mail number found on the original application papers located in the file) showing a "date in" November 27, 2002. Although the Express Mail label itself shows a date-in of November 28, 2002, the evidence is convincing that the November 27, 2002, was the date the subject package was released into the custody of the agent of the United States Postal Service, Express Mail Service.

In view of the above, the petition is granted.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 27, 2002.

Any inquiries related to this decision should be directed to the undersigned at (703)305-0010

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 8

DANIELS DANIELS & VERDONIK, P.A.
SUITE 200 GENERATION PLAZA
1822 N.C. HIGHWAY 54 EAST
DURHAM NC 27713

MAIL

MAY 03 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Brown

Application No. 10/306,714
Filed: November 27, 2002
For: SYSTEM, SOFTWARE AND METHOD FOR IMPLEMENTING AN INTEGRATED, DEVICE INDEPENDENT, PACKET TELEPHONY FRAMEWORK SOFTWARE SOLUTION

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 April 13, 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 Customer Number 26108 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 A. Wieder

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

CC: Robert A. Blaha
Thomas, Kayden, Horstmeyer & Risley LLP
10 Galleria Parkway, N.W.
Atlanta, Georgia 30339

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STOUT, UXA, BUYAN & MULLINS, LLP
4 VENTURE, SUITE 300
IRVINE, CA 92618

COPY MAILED

JUN 26 2006

OFFICE OF PETITIONS

In re Application of	:	
Richard L. Jahnke	:	DECISION ON REQUEST
Application No. 10/306,716	:	TO WITHDRAW FROM
Filed: November 27, 2002	:	RECORD
Attorney Docket No. D-2989	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed by facsimile transmission on April 14, 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 CFR § 1.136(a).

The request was signed by Carlos A. Fisher on behalf of all the attorneys or agents of record.

All the attorneys or agents of record have been withdrawn. Therefore, applicant is reminded that there are no attorneys or agents of record at this time.

All future correspondence will be directed to the sole inventor, Richard L. Jahnke, at the address indicated below.

There is an outstanding Office action mailed March 13, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

cc: Richard L. Jahnke
1810 M-35 South
Bark River, MI 49807

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 6

NIXON & VANDERHYE P.C.
8th Floor
1100 North Glebe Road
Arlington, VA 22201

COPY MAILED

AUG 29 2003.

OFFICE OF PETITIONS

In re Application of:
Choudary et al.
Application No. 10/306,745
Filed: November 29, 2002
Title of Invention:
PROCESS FOR THE SYNTHESIS OF
N-SUBSTITUTED BETA-AMINO NITRILES
THROUGH THE RING OPENING
OF AZIRIDINES

ON PETITION

This is in response to a petition under 37 CFR 1.47(a), filed August 18, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on November 29, 2002, without, *inter alia*, a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), on January 17, 2003, requiring, *inter alia*, a properly signed oath or declaration.

In the instant petition, Petitioner avers that the nonsigning inventor cannot be found or reached after the diligent efforts of Indian Counsel. No supporting declaration of Indian Counsel accompanies the instant petition.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an

acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) as set forth above.

Applicant lacks item (1) set forth above.

Where inability to find or locate a named inventor(s) is alleged, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made to locate the inventor. The statement(s) 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. A declaration should be submitted by the person with firsthand knowledge of the efforts undertaken to reach the inventors. At the very least, a search of telephone directories should be undertaken of the regions where it is suspected the non-signing inventor may reside. Copies of the results of such searches must be referred to in any renewed petition. See, MPEP § 409.03(d).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 9

NIXON & VANDERHYE P.C.
8th Floor
1100 North Glebe Road
Arlington, VA 22201

COPY MAILED

DEC 1 1 2003

OFFICE OF PETITIONS

In re Application of:	
Choudary et al.	DECISION REFUSING
Application No. 10/306,745	STATUS
Filed: November 29, 2002	UNDER 37 CFR 1.47(a)
Title of Invention: PROCESS FOR THE SYNTHESIS OF N-SUBSTITUTED BETA-AMINO NITRILES THROUGH THE RING OPENING OF AZIRIDINES	

This is in response to a Request for Reconsideration of Petition under 37 CFR 1.47(a), filed November 26, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

Background

The above-identified application was filed on November 29, 2002, without, *inter alia*, a fully executed oath or declaration. This Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice") on January 17, 2003, requiring, *inter alia*, a properly signed oath or declaration and a late filing fee, oath or declaration and surcharge.

In response to the Notice, Applicant filed a petition on August 18, 2003, alleging that the nonsigning inventor(s) could not be found or reached after diligent effort.

That petition was dismissed in a Decision mailed August 29, 2003. Applicant was advised that if an inventor is unavailable (cannot be reached), while it is not required that the application be mailed, Petitioner must establish the exercise of diligent effort in trying to find or reach the nonsigning inventor. A statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made to locate the inventor. The statement of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. (Emphasis supplied). Statements based on hearsay will not normally be accepted. At the very least, an Internet search, or a search of telephone directories should be undertaken of the regions where it is suspected the non-signing inventor may reside. Copies of the results of such searches must be referred to in any renewed petition. *See*, MPEP § 409.03(d).

<u>The instant Request for Reconsideration</u>

Applicant responds with the instant Request for Reconsideration and Declaration of Guruswamy Nataraj (hereinafter the "Nataraj Declaration"), a patent attorney whose firm acts as counsel for the assignee of the instant application, Counsel of Scientific & Industrial Research (hereinafter "CSIR"). The Nataraj Declaration avers that the Combined Declaration and Power of Attorney and Assignment were forwarded to CSIR to forward to the inventors who "belong to the Indian Institute of Chemical Technology, Hyderabad 500 007, Andhra Pradesh, India, which is a constituent laboratory of CSIR." *Nataraj Declaration at* p.2. The Nataraj Declaration further avers that Guruswamy Nataraj was "advised by CSIR's Intellectual Property Management Division that the aforesaid documents were sent to the concerned laboratory for execution by the inventors." *Id.* Mr. Nataraj provides that he was advised telephonically that two of the inventors, Jeyalakshmi Kulandaivelu and Pravin R. Likhar, had in fact left the Indian Institute of Chemical Technology shortly after the instant application was filed, and were residing in different countries. As a result, their signatures could not be obtained on the Combined Declaration and Power of Attorney. *Id.*

Mr. Nataraj further provides that he expects that the executed Declaration and Power of Attorney and Assignment will shortly be received by our clients from inventors Kulandaivelu and Likhar. *Nataraj Declaration* at p.3. Attached to the Nataraj Declaration is a copy of a letter dated October 24, 2003, received from CSIR. The letter provides that the Power of Attorney and Assignment forms

> have been sent to inventors for execution. As some of the inventors are abroad and residing in different countries, the assignment forms were sent to them for signing. In this connection, we are unable to send papers immediately as required. As soon as we receive the papers, the same would be faxed to you.

October 24, 2003 CSIR letter.

Applicable Law

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) as set forth above.

As to item (1), Applicant is advised that 37 CFR 1.47(a) 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. If an inventor is unavailable (cannot be reached), while it is not required that the application be mailed, Petitioner must establish the exercise of diligent effort in trying to find or reach the nonsigning inventor.

Analysis

It is initially noted that Mr. Nataraj works for CSIR, but the Nataraj Declaration avers that he was "advised by CSIR's Intellectual Property Management Division that the aforesaid documents were sent to the concerned laboratory for

execution by the inventors." *Nataraj Declaration at* p.2. Mr. Nataraj provides that he was advised telephonically that two of the inventors, Jeyalakshmi Kulandaivelu and Pravin R. Likhar, had in fact left the Indian Institute of Chemical Technology shortly after the instant application was filed, and were residing in different countries. As a result, their signatures could not be obtained on the Combined Declaration and Power of Attorney. *Id.*

A statement by a person with firsthand knowledge of these facts, which are relied on to establish that a diligent effort was made to locate the inventors, is required. A statement from an individual or from the individuals at CSIR's Intellectual Property Management Division, who sent the declaration and power of attorney to the concerned laboratory for execution by the inventors, and who advised Mr. Nataraj telephonically that two of the inventors, Jeyalakshmi Kulandaivelu and Pravin R. Likhar, had in fact left the Indian Institute of Chemical Technology shortly after the instant application was filed, and were residing in different countries, and as a result, their signatures could not be obtained on the Combined Declaration and Power of Attorney, is required.

While a statement of facts by a person with firsthand knowledge of these facts, which are relied on to establish that a diligent effort was made to locate the inventors, is required where it is alleged that the nonsigning inventor(s) could not be found or reached after diligent effort, a review of the Nataraj Declaration and letter call into question the inability to locate the nonsigning inventors.

The Nataraj Declaration says the Mr. Nataraj expects that the executed Declaration and Power of Attorney and Assignment will shortly be received by our clients from inventors Kulandaivelu and Likhar. *Nataraj Declaration* at p.3. Also, the October 24, 2003 letter does not indicate that the whereabouts of inventors Kulandaivelu and Likhar are unknown. Contrarywise, the letter avers that "the above forms have been sent to inventors for execution." The October 24, 2003 letter further provides that "[a}s soon as we receive the [Power of Attorney/Assignment Form], the same will be faxed to you."

Applicable Law

Further as to item (1), if the whereabouts of an inventor are known, 37 CFR 1.47(a) allows the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s) when the nonsigning inventor refuses to join in the application. However, before a refusal to join in the application may be alleged, 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).

Analysis

In the instant case, the Nataraj Declaration evidences proof that the Combined Declaration and Power of Attorney and Assignment Documents were sent to the inventors, but does not demonstrate that the application was sent to the inventors.

If the whereabouts of the inventors are known, then before a refusal can be alleged, the entire application must be sent to the nonsigning inventor at his or her last known address.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (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
www.uspto.gov

AUG 4 2004

DCM

In re Application of	:	
Daniel Berkowitz, et al.	:	
Serial Number: 10/306,765	:	DECISION
Filed: November 27, 2002	:	ON
For: WATERPROOF LAMINATED MAT	:	PETITION

This is a decision on the Petition to Make Special because of Actual Infringement, filed under sections 37 C.F.R. 1.102 and 708.02 II of the MPEP on May 3, 2004, regarding the above-referenced application. The fee required under 37 CFR 1.17(h) has been paid. The petition meets the requirements of section 708.02 II of the MPEP.

If the examiner finds any interfering application for the same subject matter, the examiner should consider such application simultaneously with this case and should state in the official letter of such application that the examiner is taking it out of its turn because of a possible interference.

Should an appeal be taken or this case become involved in interference, then consideration of the appeal or interference will be expedited by the Patent and Trademark Office, contingent upon diligent prosecution by applicant.

After allowance, this case will be given priority for printing. See MPEP 1309.

The petition is **GRANTED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Frank J. Bonini, Jr.
86 The Commons at Valley Forge East
1288 Valley Forge Rd.
P.O. Box750
Valley Forge, PA 19482-0750

MAY 20 2004 JC22 PATENT & TRADEMARK OFFICE

1744
IFW
Pet. Sec.

Rev 01/04

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application : Michael Yuan Lu
Application No. : 10/306,774
Filed : November 26, 2002
Confirmation No. : 7900
For : MAIL BOX PROCESSOR
Attorney's Docket : MYL-101XX

TC Art Unit: 1651

* *

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on 5-18-4.

By: [signature]
Charles L. Gagnebin III
Registration No. 25,467
Attorney for Applicant(s)

* *

APPLICATION FOR WITHDRAWAL AS ATTORNEYS OF RECORD

Approved
[signature]
Jacqueline M. Stone, Director
Technology Center 1700

JUL - 6 2004

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the provisions of 37 C.F.R. §2.19, the following make application for withdrawal as Principal Attorneys of Record:

Stanley M. Schurgin, Registration No. 20,979
Charles L. Gagnebin III, Registration No. 25,467
Victor B. Lebovici, Registration No. 30,864
Beverly E. Hjorth, Registration No. 32,033
Holliday C. Heine, Registration No. 34,346
Gordon R. Moriarty, Registration No. 38,973
James F. Thompson, Registration No. 36,699
Richard E. Gamache, Registration No. 39,196

of the address:

WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
Ten Post Office Square
Boston, Massachusetts 02109

Application No. 10/306/774
Filed: November 26, 2002
TC Art Unit: 1651
Confirmation No. 7900

In the event that one or more of the foregoing persons are not presently listed as Principal Attorneys of Record, please disregard this application with respect to such person(s).

No action by Applicant is currently pending.

Respectfully submitted,

By: _____

Charles L. Gagnebin III
Registration No. 25,467
Attorney for Applicant(s)

WEINGARTEN, SCHURGIN,
GAGNEBIN & LEBOVICI LLP
Ten Post Office Square
Boston, MA 02109
Telephone: (617) 542-2290
Telecopier: (617) 451-0313

CLG/dkh/302972

WEINGARTEN, SCHURGIN,
GAGNEBIN & LEBOVICI LLP
TEL (617) 542-2290
FAX (617) 451-0313

MAY 2 0 2004
JC22
PATENT & TRADEMARK OFFICE

Pet. Dec. 1744
IFW

01/04

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application : Michael Yuan Lu
Application No. : 10/306,774
Filed : November 26, 2002
Confirmation No. : 7900
For : MAIL BOX PROCESSOR
Attorney's Docket : MYL-101XX

TC Art Unit: 1651

* *

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on 5-18-4.

By: [signature]
Charles L. Gagnebin III
Registration No. 25,467
Attorney for Applicant(s)

* *

APPLICATION FOR WITHDRAWAL AS ATTORNEYS OF RECORD

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Approved
[signature]
Jacqueline M. Stone, Director
Technology Center 1700

Sir:

In accordance with the provisions of 37 C.F.R. §2.19, the following make application for withdrawal as Principal Attorneys of Record:

JUL - 6 2004

Stanley M. Schurgin, Registration No. 20,979
Charles L. Gagnebin III, Registration No. 25,467
Victor B. Lebovici, Registration No. 30,864
Beverly E. Hjorth, Registration No. 32,033
Holliday C. Heine, Registration No. 34,346
Gordon R. Moriarty, Registration No. 38,973
James F. Thompson, Registration No. 36,699
Richard E. Gamache, Registration No. 39,196

of the address:

WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
Ten Post Office Square
Boston, Massachusetts 02109

Application No. 10/306/774
Filed: November 26, 2002
TC Art Unit: 1651
Confirmation No. 7900

In the event that one or more of the foregoing persons are not presently listed as Principal Attorneys of Record, please disregard this application with respect to such person(s).

No action by Applicant is currently pending.

Respectfully submitted,

By: _____
Charles L. Gagnebin III
Registration No. 25,467
Attorney for Applicant(s)

WEINGARTEN, SCHURGIN,
GAGNEBIN & LEBOVICI LLP
Ten Post Office Square
Boston, MA 02109
Telephone: (617) 542-2290
Telecopier: (617) 451-0313

CLG/dkh/302972

WEINGARTEN, SCHURGIN,
GAGNEBIN & LEBOVICI LLP
TEL (617) 542-2290
FAX (617) 451-0313

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ALEXANDRIA, VA 22313-1450
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Paper No.

Martin E. Hsia
Cades Schutte LLP
P O Box 939
Honolulu, HI 96808-0939

COPY MAILED

OCT 0 5 2004

OFFICE OF PETITIONS

In re Application of:	
Pouchkarev	
Application No. 10/306,791	DECISION REFUSING
Filed: July 3, 2003	STATUS UNDER
Title of Invention: SAFETY SYSTEM	37 CFR 1.47(b)
FOR KITE THAT INDUCES STABLE AND	
POWERLESS DESCENT	

This is in response to a petition under 37 CFR 1.47(b), filed April 27, 2004, 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 four (4) month extension of time requested is hereby granted. The delay in treating this petition is regretted.

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)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on July 3, 2003, without an executed oath or declaration. This Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice") on October 27, 2003, requiring, *inter alia*, a properly signed oath or declaration and a late filing fee, oath or declaration and surcharge.

In response to the Notice, Applicant files the instant petition wherein Applicant avers that the nonsigning inventor refuses to join in the application. Applicant also provides, in lieu of an assignment of the invention, a discussion in the petition citing to legal precedent, that Applicant is entitled to clear title to the invention.

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 item (5).

As to item (5), applicant failed to show or provide proof that Nalu Kai, 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 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.

> A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court

> or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

MPEP 409.03(f).

Applicant must provide a legal memorandum supporting his assertion that Nalu Kai Inc., has sufficient proprietary interest in the invention.

By mail: Mail Stop PETITIONS
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-0025
Attn: Office of Petitions

By hand: Customer Window Located at:
U.S. Patent & Trademark Office
220 20th Street S.
Customer Window, Mail Stop PETITIONS
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney Advisor
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/18/05

TO SPE OF : ART UNIT ~~2818~~ 2827

SUBJECT : Request for Certificate of Correction on Patent No.: 10/306,799 4,781,857

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.

ARG

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes do not apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

SPE

2827
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

RANKIN, HILL, PORTER & CLARK, LLP
925 EUCLID AVENUE, SUITE 700
CLEVELAND, OH 44115-1405

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APR 15 2004

OFFICE OF PETITIONS

In re Application of
Dluzneski, Peter R.
Application No. 10/306,802
Filed: November 27, 2002
Attorney Docket No. GEO-14044

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 25, 2004, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed September 24, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 25, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is now being forwarded to the Publishing Division for processing into a patent.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/306,808	11/27/2002	Michael Segler	13915-039001	8254

45062 7590 10/30/2009
SAP/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

EXAMINER
AL HASHEMI, SANA A

ART UNIT	PAPER NUMBER
2156	

MAIL DATE	DELIVERY MODE
10/30/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

SAP/BSTZ
BLAKELY SOKOLOFF
TAYLOR & ZAFMAN LLP
1279 Oakmead Parkway
Sunnyvale, CA 94085-4040

In re Application of:
Michael SEGLER, et al.
Application No. 10/306,808
Filed: November 27, 2002
For: BUILDING A GEOGRAPHIC DATABASE

DECISION ON PETITION
UNDER 37 CFR § 1.48(a)

This is a decision on the petition, filed on 06 June 2005, under 37 C.F.R. § 1.48(a).

The petition is **GRANTED**.

The application is being forward to Technology Center Support Staff to enter inventors Philipp HASSLER and Thorsten BENDER in the PALM database and to mail a corrected filing receipt.

Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture and Software
571-272-3613

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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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Trebesch et al	:	
Application No. 10/306,816	:	
Filed: November 26, 2002	:	
Attorney Docket No. 2316.1066USC1	:	

This is a decision on the petition, filed July 21, 2005[1], 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 17, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[2]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

---

[1]Evidence has been provided to show that the above petition was received in the USPTO on June 27, 2005, bearing Application No.10/306,815 instead of the correct Application No. 10/306,816.

[2] 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 2839 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

UNITED STATES 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 21, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Steven P. Trebesch et al
Application No. :10/306,816
Filed :November 26, 2002

The above-identified application has been assigned Patent No. 6,925,240 and an issue date of August 2, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of August 2, 2005:

"All reference to Patent No. 6,925,240 to Steven P. Trebesch et al of Minnesota for Cable Management Panel With Sliding Drawer appearing in the Official Gazette of August 2, 2005 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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SCB

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Trebesch et al	:
Application No. 10/306,816	:
Filed: November 26, 2002	:
Attorney Docket No. 2316.1066USC1	:

This is a decision on the petition, filed July 21, 2005[1], 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 17, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[2]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

---

[1]Evidence has been provided to show that the above petition was received in the USPTO on June 27, 2005, bearing Application No.10/306,815 instead of the correct Application No. 10/306,816.

[2] 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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DIW Nov-05

HELLER EHRMAN WHITE & MCAULIFFE LLP
1717 RHODE ISLAND AVE, NW
WASHINGTON DC 20036-3001

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NOV 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Braithwaite et al.	:	
Application No. 10/306,825	:	DECISION ON PETITION
Filed: 27 November, 2002	:	
Atty Docket No. 4222-0014	:	

This is a decision on the petition filed on 11 October, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 6 July, 2005, for failure to timely pay the issue and publication fees as required by the

---

[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)).

Notice of Allowance and Fee(s) Due mailed on 5 April, 2005.
Notice of Abandonment was mailed on 21 September, 2005.

Receipt of the revocation and power of attorney and change of correspondence address is acknowledged.

This application is being referred to the Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cf: Notice Regarding Change of Power of Attorney

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060627

DATE : June 27, 2006

TO SPE OF : ART UNIT 2828

SUBJECT : Request for Certificate of Correction on Patent No.: 7,027,469

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:

MINSUN OH HARVEY
PRIMARY EXAMINER

SPE: Minsun Harvey **Art Unit** 2828

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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Cooley, Godward, Kronish, LLP
Attn: Patent Group
Suite 1100
777 – 6th Street, NW
Washington, DC 20001

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JUL 1 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Randolf C. Robinson	:	
Application No. 10/306,857	:	DECISION ON PETITION
Filed: November 27, 2002	:	
Attorney Docket No. INTR-002/01US 304076-2002	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 3, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the final Office action mailed September 13, 2007, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on June 24, 2008.

Petitioner asserts that a reply to the final Office action was in fact timely filed on December 6, 2007. A review of the record acknowledges that a reply was in fact received in the USPTO on December 6, 2007. The petition fee of $770 will be credited to petitioner's deposit account 50-1283.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The above-identified application will be restored to pending status.

Accordingly, this application is being referred to Technology Center 3733 for processing.

Carl Friedman
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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Cooley, Godward, Kronish, LLP
Attn: Patent Group
Suite 100
777 – 6th Street, NW
Washington, DC 20001

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OFFICE OF PETITIONS

In re Application of	:	
Randolph C. Robinson	:	
Application No. 10/306,857	:	DECISION ON PETITION
Filed: November 27, 2002	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed May 23, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Wayne Stacy, on behalf of all attorneys/agents associated with customer number 22903. All attorneys/agents associated with customer number 22903 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address has been changed and is copied below.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Wayne Stacy
777 6th Street NW, Ste. 1100
Washington, DC 20001

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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
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/306,857	11/27/2002	Randolph C. Robinson	INTR-002/01US 304076-2002

CONFIRMATION NO. 7859

POWER OF ATTORNEY NOTICE

22903
COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
Suite 1100
777 - 6th Street, NW
WASHINGTON, DC 20001

OC000000031849394

Date Mailed: 09/02/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed May 23, 2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BRINKS HOFER GILSON & LIONE
PO BOX 10395
CHICAGO IL 60610

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DEC 2 0 2005

OFFICE OF PETITIONS

In re Application of	:
Foley, et al.	: DECISION ON APPLICATION
Application No. 10/306,886	: FOR PATENT TERM ADJUSTMENT
Filed: November 27, 2002	:
Attorney Docket No. 6298/422	:

This decision is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed November 9, 2005, notifying the Office of an error in Applicant's favor in the initial determination of patent term adjustment under 35 U.S.C. § 154(b).

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is **two hundred six (206)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 10, 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 two hundred eight (208) days.

The Office initially determined a patent term adjustment of two hundred eight (208) days based on an adjustment for PTO delay of two hundred forty (240) days, pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by applicants' delay of thirty-two (32) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(b). The adjustments have been reviewed and found to be correct. Applicants state that they should have been assessed additional delay.

A review of the record reveals that the Office mailed a non-final Office action September 23, 2004. Applicants filed a response on January 24, 2005, and were properly assessed thirty-two (32) days of applicant delay pursuant to 37 C.F.R. § 1.704(b). However, two days later applicants filed an IDS. Accordingly, applicants should have been assessed two (2) additional days of delay pursuant to 37 C.F.R. § 1.704(c)(8) for filing a supplemental paper.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **two hundred six (206)** days (240 days of PTO delay, reduced by 34 (32 + 2) days of Applicant delay).

No petition fee was required. The Office thanks Applicants for their good faith and candor in bringing this matter to the attention of the Office.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery A Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of adjusted PAIR calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 9

ZAGORIN O'BRIEN & GRAHAM LLP
401 W 15TH STREET
SUITE 870
AUSTIN TX 78701

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JUL 15 2003

OFFICE OF PETITIONS

In re Application of
Roy E. Scheuerlein et al
Application No. 10/306,887
Filed: November 27, 2002
Attorney Docket No. 023-0015

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed June 24, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional applications set forth in the amendment accompanying the instant petition.

The petition is **Granted.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the surcharge set forth in 37 CFR 1.17(t);

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional; and

(3) the reference to the prior-filed provisional application supplied in an application data sheet (ADS)(37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. *See* 35 U.S.C. 119(e) and 37 CFR 1.78(a)(5)(iii). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on November 27, 2002. A reference to the prior-filed provisional applications has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional applications was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed provisional applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior applications under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior applications. In order for the instant application to be entitled to the benefit of the prior applications, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

The application is being forwarded to Technology Center AU 2818 for processing the amendment submitted June 24, 2003 and for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional applications.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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STEPHEN C. KAUFMAN
INTELLECTUAL PROPERTY LAW DEPARTMENT
IBM CORPORATION
P.O. BOX 218
YORKTOWN HEIGHTS, NY 10598

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APR 0 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Shay Ben-David et al.	:	
Application No. 10/306,916	:	DECISION ON PETITION
Filed: November 27, 2002	:	
Attorney Docket No. IL920020026US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed, January 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 18, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed September 18, 2007. Accordingly, the date of abandonment of this application is December 19, 2007. A Notice of Abandonment was mailed on January 25, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,440 and the publication fee of $300, (2) the petition fee of $1,540, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Suzanne Erez
IBM Labs, Haila University
Mount Carmel, 31905
ISRAEL

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

In re Application of
Frank R. Cowlishaw
Application No. 10/306,927
Filed: November 29, 2002
Attorney Docket No. 49452/W225

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed July 12, 2006.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before January 23, 2006. A Notice of Abandonment was mailed on June 26, 2006. In response, on July 12, 2006, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the requisite issue/publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Publications to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[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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Paper No. 6

Charles Y. Lackey
Post Office Box 5871
Winston-Salem, NC 27113-5871

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APR 0 7 2004

OFFICE OF PETITIONS

In re Application of	:	
Carlene Mayes	:	
Application No. 10/306,928	:	ON PETITION
Filed: December 2, 2002	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.137(a), filed March 29, 2004, to revive the above-identified application.

The petition is **DISMISSED.**

Any further petition to revive 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 "Petition under 37 CFR 1.137." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed;[1] (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). The instant petition lacks items (2) and (3).

---

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

A "Notice to File Missing Parts of a Nonprovisional Application" (Notice) was mailed to applicant on January 27, 2003, setting a two-month period within which to submit a reply. Since no extensions of time under the provisions of 37 CFR 1.136 were obtained and no reply was received, the application became abandoned on March 28, 2003.

In regards to item (2) above, petitioner has not submitted the requisite unavoidable petition fee of $55. Since the merits of the instant petition have been addressed, petitioner must submit unavoidable fee upon the filing of a renewed petition under 37 CFR 1.137(a) or upon the filing of an unintentional petition under 37 CFR 1.137(b) (in addition to the $665 unintentional petition fee). **The application will not be revived until all required fees are paid.**

With respect to item (3) above, the showing of record is inadequate to establish that the delay in this case was unavoidable within the meaning of 37 CFR 1.137(a).

Petitioner alleges that the Notice was never received. However, petitioner has not provided any evidence to support such an allegation. A review of the written record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity there is a strong presumption that the Notice was properly mailed to the applicant at the address of record. MPEP 711.03(c) in pertinent part states:

> "The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement."

Petitioner must supply evidence to support the assertion that the Notice was never received to establish unavoidable delay.

Petitioner should consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of 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 $665 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 addressed as follows:

By Mail: Mail Stop PETITION
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Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 8

Charles Y. Lackey
Post Office Box 5871
Winston-Salem, NC 27113-5871

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OFFICE OF PETITIONS

In re Application of	:	
Carlene Mayes	:	
Application No. 10/306,928	:	ON PETITION
Filed: December 2, 2002	:	
Attorney Docket No. N/A	:	

This is a decision on the renewed petition under 37 CFR 1.137(a), filed April 23, 2004, to revive the above-identified application.

The petition is **DISMISSED.**

Any further petition to revive 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 "Petition under 37 CFR 1.137." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed;[1] (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). The instant petition lacks item (3).

The showing of record is inadequate to establish unavoidable delay under 35 U.S.C. § 41 and 37 CFR 1.137(b).

---

[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.

The decision mailed April 7, 2004, required petitioner to provide evidence to support the allegation of nonreceipt of the outstanding office action. In reply, petitioner submitted copies of a "docket sheet" for this application, as well as copies of docket sheets for other applications. Petitioners docket sheets appear to be itemized listings of a series of events for each application. Moreover, it appears that petitioner's docketing system does not provide a method of tracking due dates for Office actions received, nor does it show receipt of other mail during any specific time period, which could be used to support an allegation of nonreceipt. Judging from the evidence submitted it seems that petitioner's docketing system is less than sufficient to show what papers are received on any given date and when replies are due. Furthermore, petitioner has not provided a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received.

It is unclear from the evidence provided how petitioner's docketing system works. Petitioner should supply a thorough explanation of the docketing and call-up system in use and should identify the type of records kept and the person responsible for the maintenance of the system. Additionally, petitioner must provide a statement attesting to the fact that the Office communication as not received and to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. While a requirement to this effect was not implicitly stated in the previous decision, the addition of the statement from MPEP 711.03(c) implied it.

Petitioner is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of 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 $665 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 addressed as follows:

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Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

Marianne E. Morgan

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Examination Policy

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Paper No. 10

Charles Y. Lackey
Post Office Box 5871
Winston-Salem, NC 27113-5871

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OFFICE OF PETITIONS

In re Application of	:	
Carlene Mayes	:	
Application No. 10/306,928	:	ON PETITION
Filed: December 2, 2002	:	
Attorney Docket No. N/A	:	

This is a decision on the renewed petition under 37 CFR 1.137(a), filed June 3, 2004, to revive the above-identified application.

The petition is **GRANTED.**

Petitioner has demonstrated to the satisfaction of the Director of the USPTO that the delay in submitting a reply to the outstanding office action was unavoidable.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Examination Policy

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GENE W. ARANT
P.O. BOX 269
LINCOLN CITY OR 97367-0269

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NOV 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Heinz Stoecker : DECISION ON PETITION
Application No. 10/306,930 :
Filed: 27 November, 2002 :
Atty Docket No. 0281 :

This is a decision on the petition filed on 1 June, 2005, under 37 CFR § 1.182, concerning the Office's handling of an application assigned Application No. 10/306,930.

The petition is **DISMISSED**.

Petitioner requests that the Office recognize a claim of benefit to an international application and a claim of foreign priority included on the transmittal letter.

Petitioner states, in pertinent part:

> This application as originally filed included a claim for international priority that complied with both the international treaty and United States statutory law. However, the Receiving Office failed to recognize the priority claim in any way, an apparently assigned this application for processing in the same manner as if no priority had been submitted.
>
> The Receiving Office ignored the priority claim that was clearly set forth in the transmittal letter with which the application was filed, and also ignored the fact that the application included copies of both the PCT application and the International Search Report. There was no communication from the Receiving Office to Applicant regarding the priority claim.

It appears that petitioner believes that the present application was filed as a national stage filing of the prior-filed PCT application under the provisions of 35 U.S.C. § 371. However, a review of the application papers received on 27 November, 2002, reveals that the application was filed as a nonprovisional

application pursuant to the provisions of 35 U.S.C. § 111(a). As such, a claim for benefit of the international application must be made in accordance with 37 CFR § 1.78(a)(5) and 35 U.S.C. § 365(c). Additionally, priority to the prior-filed foreign application must be claimed in accordance with 37 CFR § 1.55 and 35 U.S.C. § 119(a)-(d).

Further, as 37 CFR §§ 1.78(a)(3) and 1.55(c) provide a remedy, treatment of this petition under 37 CFR § 1.182 is inappropriate. As such, petitioner may wish to consider filing a petition under 37 CFR §§ 1.78(a)(3) and 1.55(c) to amend the application to include a delayed claim of benefit to the international application and a delayed claim of priority to the foreign application.

As this petition did not result from an error on the part of the USPTO, a petition fee of $400.00 is due for consideration under 37 CFR § 1.182. The fee will be assessed to counsel's deposit account, No. 01-2226, as authorized in the present petition.

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 the undersigned at 571-272-3231.

D Wood

Douglas Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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P.O. BOX 269
LINCOLN CITY OR 97367-0269

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OFFICE OF PETITIONS

In re Application of	:	
Heinz Stoeckler	:	DECISION DISMISSING PETITION
Application No. 10/306,930	:	UNDER 37 CFR 1.78(a)(3)
Filed: 27 November, 2002	:	AND 37 CFR 1.55(c)
Atty Dkt No. 0281	:	

This is a decision on the petition under 37 CFR §§ 1.55(c) and 1.78(a)(3), filed on 9 November, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120, 365(c), and 119(a)-(d) for the benefit of the prior-filed international and foreign applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR § 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional or international application claiming the benefit of one or more prior-filed copending nonprovisional or international applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. PCT/US01/000--, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. PCT/US01/000--, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application.[1] The amendment filed on 1 June, 2005, fails to state the relationship of international Application No. PCT/CH01/00350, filed 1 June, 2001, to the instant application.

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment (complying with 37 CFR 1.121) stating the relationship of the prior-filed application to the instant application is required.

As to the 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

[1] See MPEP Section 201.11, Rev. 2, May 2004, Reference to Prior Application.

which priority is claimed, by the application number, country, and the filing date **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);**

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition lacks item (2). While it is noted that the declaration present on filing claimed priority to a Swiss application, no application number was provided. As such, petitioner should provide an Application Data Sheet or new declaration properly stating the claim for foreign priority with any renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Frances Hicks

Frances M. Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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MINNEAPOLIS, MN 55437

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OFFICE OF PETITIONS

In re Application of :
Miska Hannuksela :
Application No. 10/306,942 : ON PETITION
Filed: November 29, 2002 :
Attorney Docket No. TAPA.004PA

This is a decision on the petition, filed March 31, 2010 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 5, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

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OFFICE OF PETITIONS

In re Patent No. 7,510,706
Yonemitsu et al.
Issue Date: March 31, 2009
Application No. 10/306,949
Filed: November 29, 2002
Attorney Docket No.
50026/035001
Title: Pseudotype Retroviral Vectors Containing Membrane Proteins Having Hemagglutinin Activity

DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is in response to the "Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. §1.705(d)" filed May 29, 2009.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On March 31, 2009, the above-identified application matured into US Patent No. 7,510,706 with a patent term adjustment of 295 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentee requests recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 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 maintain that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b) is 520 days.

Thus, patentees request that the determination of patent term adjustment be increased by 520 days to a total of eight hundred fifteen (815) days.

The 520-day period is calculated based on the application having been filed under 35 U.S.C. §111(a) on November 29, 2002, and a request for continued examination (RCE) having been filed on May 3, 2007. The filing of a RCE cuts-off the applicants' ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment. 37 CFR § 1.703(b)(1).

Accordingly, patentee asserts the period of adjustment under § 1.702(b) is 520 days, counting the number of days beginning on November 30, 2005 and ending on May 3, 2007.

The period of reduction of 321 days for applicant delay is not in dispute.

The Office finds that as of the filing of the request for continued examination (RCE) on May 3, 2007, the application was pending three years and 520 days after its filing date. The Office agrees that certain action was not taken within a specified time frame, and, thus, the entry of a period of adjustment of 616 days is correct. Further, a reduction of 321 days for applicants' failure to engage in reasonable efforts to conclude prosecution was taken.

Under 37 CFR § 1.703(f), patentee 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 applicants failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of applicant delay.

At issue is whether patentees should accrue 520 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 616 days for Office failure to take certain actions within specified time frames (or examination 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, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of applicants. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the

actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

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 29, 2002 to the date the patent issued on March 31, 2009(except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

The Office did not delay 616 days and then delay an additional 520 days. Accordingly, 616 days of patent term adjustment (not 616 days and 520 days) was properly entered because the entire period of delay of 616 days attributable to grounds specified in § 1.702(a)(1)-(4) overlaps with the adjustment of 520 days attributable to the delay in the issuance of the patent under 37 CFR 1.702(b). Further, patentee failed to engage by an uncontested period of 321 days.

In view thereof, the Office affirms that the correct revised determination of patent term adjustment at the time of the issuance of the patent is 295 days (616 - 321).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

---

[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).

Telephone inquiries specific to this matter should be directed to Charlema Grant, Petitions Attorney, at (571) 272-3215.

Kery Fries

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

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STEVEN C. LIESKE
OPPENHEIMER WOLFF & DONNELLY LLP
45 SOUTH SEVENTH ST.
SUITE 3300
MINNEAPOLIS MN 55402-1609

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OCT 17 2007
OFFICE OF PETITIONS

In re Application of	:	
Michel K. Bowman-Amuah	:	DECISION NOTING PETITION
Application Number: 10/306979	:	UNDER 37 CFR 1.47(b) MOOT
Filing Date: 11/27/2002	:	
Attorney Docket Number: 60021-376101	:	

This is a decision in response to the petition filed on 14 September, 2007, under 37 CFR 1.47(b).

It is noted that on 29 August, 2003, prior to the filing of the present petition, a declaration in compliance with 37 CFR 1.63, signed by the sole inventor, was received.

As the inventor has signed the declaration, no petition under 37 CFR 1.47(b) is required. Consequently, further consideration under 37 CFR 1.47(b) is moot; this application does not have any rule 1.47(b) status and no such status should appear in the file. This application need not be returned to this office for any further consideration under 37 CFR 1.47(b).

The petition is **DISMISSED AS MOOT**.

The petition fee has not been charged.

The application is referred to Technology Center 2143 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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ACCENTURE/FINNEGAN, HENDERSON,
FARABOW, GARRETT & DUNNER, LLP
901 NEW YORK AVENUE
WASHINGTON, DC 20001-4413

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OFFICE OF PETITIONS

In re Application of	:	
Michel K. Bowman-Amuah	:	
Application No.: 10/306,979	:	ON PETITION
Filed: November 27, 2002	:	
Attorney Docket No.: 10761.0466	:	

This is a decision on the petition, filed September 3, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 31, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2443 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

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 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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Paper No.

ACCENTURE/FINNEGAN, HENDERSON,
FARABOW, GARRETT & DUNNER, LLP
901 NEW YORK AVENUE
WASHINGTON DC 20001-4413

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MAR 23 2010

OFFICE OF PETITIONS

In re Application of :
Michel K. Bowman-Amuah :
Application No. 10/306,979 : ON APPLICATION FOR
Filed: November 27, 2002 : PATENT TERM ADJUSTMENT
Atty Docket No. :
10761.0466 :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT - BEFORE PAYMENT OF ISSUE FEES," filed on December 3, 2009, which is treated as an application for patent term adjustment filed under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is 908 days, not 509 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.

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, 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].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Applicants state that the patent is not subject to a terminal disclaimer.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

---

[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.

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

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JUN 28 2005

Director's Office
Group 3700

IP FOCUS LAW GROUP, LTD
608 NORTH CARLYLE LANE
SUITE 100
ARLINGTON HEIGHTS, IL 60004

Paper No. 13

In re Application of
KAMYSZ ET AL.
Application No.: 10/306,986
Filed: November 27, 2002

DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on petitioner's request filed 30 August 2004 to review the holding of abandonment, mailed 29 June 2004 for failure to respond to the Office action of 12 September 2003.

The petition is granted.

In support of the request, petitioner has submitted a copy of a response and a copy of a PTO stamped post card receipt dated 24 November 2003.

In view of the above, the Notice of Abandonment mailed 29 June 2004 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the examiner for appropriate action.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch, Director
Technology Center 3700

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OCT 11 2005

BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.
5 CONCOURSE PARKWAY
SUITE 900
ATLANTA, GA 30328

In re application of Greg Dillard Application No. 10/307,000 Filed: November 27, 2002 For: METHOD OF ADMINISTRATING INSURANCE COVERAGE FOR MULTI-TASKS BUILDING PROJECTS	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)**

This is a decision on the petition under 37 C.F.R § 1.102(d) filed June 20, 2005 to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(h); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed October 12, 2004 lacks requirements 2(A), above. Regarding requirement 2(A), it is not clear from petitioner's statement if he is stating that "there is an infringing device or product actually on the market or method in use".

In view of these deficiencies, the petition is **DISMISSED**.
Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above.

Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

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
(571) 272-6587

KJD/slb: 10/03/05

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United States Patent and Trademark Office
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SEP 27 2004

Director's Office
Group 3700

MCHALE & SLAVIN, P.A.
2855 PGA BLVD
PALM BEACH GARDENS, FL 33410

In re Application of
SHETLEY, MICHAEL
Application No.: 10/307,030
Filed: November 29, 2002

DECISION ON PETITION

By papers filed on June 17, 2004, counsel has petitioned to withdraw as attorney of record in this application.

The petition is DISMISSED.

Attention is invited to MPEP 402.06 and 37 CFR 10.40(c). A petition to withdraw as attorney or agent of record should (1) indicate the last known mailing address of the applicant, (2) be signed by all members of the firm or indicate on its face that the member of the firm signing the petition has the authority to withdraw on behalf of all members of the firm, and (3) state the reason(s) for withdrawal as set forth in 37 CFR 10.40(c). The instant petition does not comply with item 1 above.

In regard to item 1, there is no indication in the file that an assignee has established the right to take action in this application. A statement under 37 CFR 3.373(b) has not been found in the application.

It is also noted that the time for responding to the office action has expired.

PETITION DISMISSED.

Linda Sholl

Linda Sholl, Special Program Examiner
Technology Center 3700
(703) 308-1288

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Paper No. 5

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OFFICE OF PETITIONS

Sean S. Swidler
Michael Best & Friedrich
401 N. Michigan
Chicago, IL 60611

In re Application of :
Kamysz et al. :
Application No. 10/307,041 : DECISION ON PETITION
Filed: November 27, 2002 :
Attorney Docket Number: :
052273-9004-2 :

This is a decision on the petition filed March 24, 2003, requesting that the above-identified application be accorded a filing date of June 25, 2002, with drawing Figure 11a as part of the original disclosure.

The petition is dismissed.

The application was deposited on November 27, 2002. However, on January 17, 2003, the Office mailed a "Notice to File Corrected Application Papers" stating that the application had been accorded a filing date of November 27, 2002, and advising applicants, *inter alia*, that Figure 11a described in the specification appeared to have been omitted from the application.

Petitioner responds with the instant petition wherein Petitioner avers that the drawings in the above-identified application were incorporated by reference to prior nonprovisional application no. 10/054,533.

Applicants are advised that a petition is not necessary in this instance to add the drawing figures. New drawings may be entered by the primary examiner without a petition so long as the drawings contain no new matter. See, MPEP § 608.02(a). Applicants may add figure(s) described in the specification on the basis that the drawings are not new matter.

MPEP 201.06(c) states:

> . . . an applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated by herein by reference." The statement may appear in the specification or in the application transmittal letter

> . . . . The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference. (emphasis supplied).

The petition fee will not be refunded, since the petition was not necessitated by any error on the part of the USPTO.

This application is being forwarded to the Office of Initial Patent Examination, Customer Corrections, for further processing, with the filing date of November 27, 2002, using Figures 1-23 filed on that date.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Derek L. Woods
Petitions Attorney
Office of Petitions

SPE. D. Martin

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/307,052

Paper No.: _____

DATE : 6/10/05

TO SPE OF : ART UNIT 2837

SUBJECT : Request for Certificate of Correction on Patent No.: 6803510

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Lamonte Newsome

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

P. AUSTIN BRADLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Paula Bradley
SPE

2833/2837
Art Unit

PTO/SB/44 (04-04)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,803,510

DATED : ~~May 10, 2005~~ October 12, 2004

INVENTOR(S) : Tim Van Dusen

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

The patent was issued with the incorrect images displayed as figures two and three, and on the patent cover page. The correct drawings can be found on the Patent Application Information Retrieval page under Application Number 10/307,052. The document containing both the edited images (which incorrectly appear on the issued patent) and the finalized images has a Document Description of "Drawings" and a Mail Room Date of June 4, 2004. The edited images appear on page 1 of this document, while the finalized images appear on page 2.

MAILING ADDRESS OF SENDER:

PATENT NO. 6,803,510

David J. Dawsey
Gallagher & Dawsey, LLP
533 S. Fifth St., Columbus Ohio 43206.

No. of additional copies

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

MAY 23 2005

PAGE 2/2

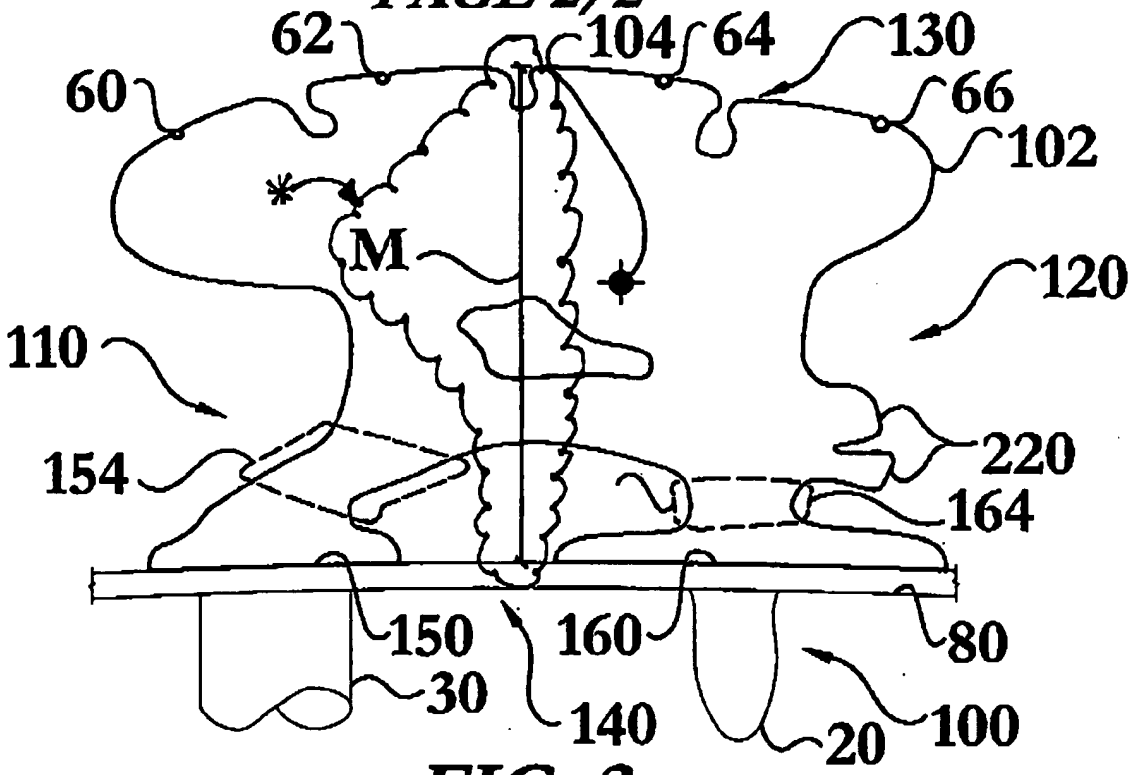

FIG. 2

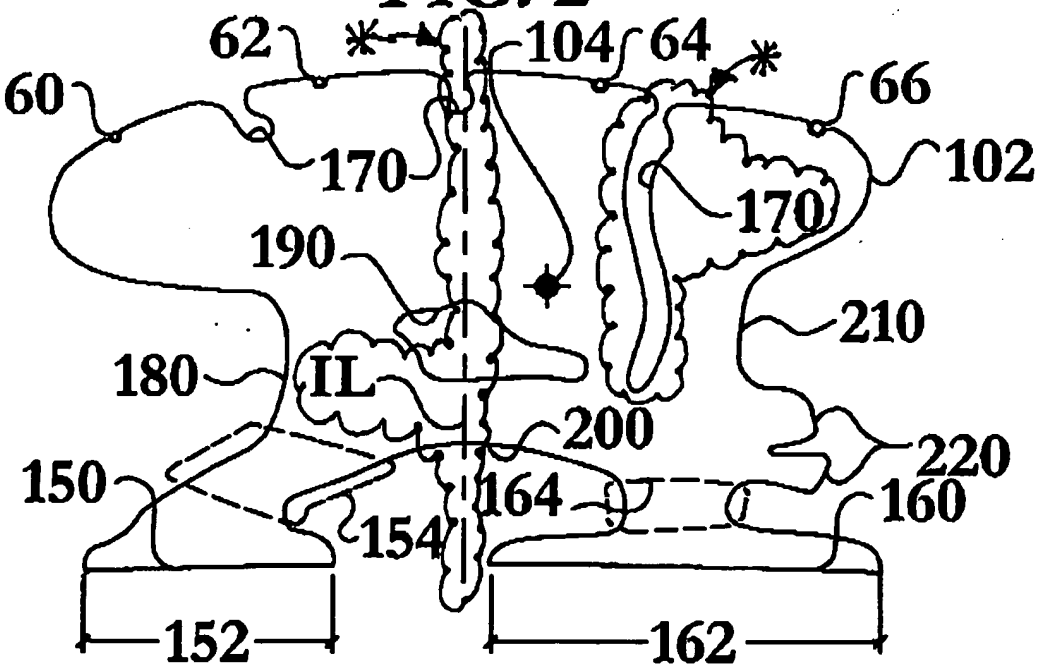

FIG. 3

Appl. No. 10/307,052
Amdt. Dated 06/04/04
Reply of OA of 03/25/04
Ann tated Sheet Showing Changes

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FOURTEENTH FLOOR
IRVINE, CA 92614

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OFFICE OF PETITIONS

In re Application of :
Shi, et al. :
Application No. 10/307,063 :
Filed: November 27, 2002 :
Attorney Docket No. NIH197.001C1

ON PETITION

This is a decision on the petition to withdraw the holding of abandonment, filed October 20, 2006.

The petition is **DISMISSED**.

The record reflects that a non-final Office action was mailed on March 27, 2006, allowing 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). On June 30, 2006, and July 6, 2006, applicant filed responses to the non-final Office action. On September 21, 2006, a notice was mailed indicating that the response of July 6, 2006, was insufficient and that the period for response remained as set forth in the non-final Office action mailed March 27, 2006. No further responses were received within the period set for reply and the application became abandoned June 28, 2006.

Petitioner now files the instant petition to withdraw the holding of abandonment maintaining that a proper response to the non-final Office action could not be filed because the there was not enough time to file a response between the date petitioner received the September 21, 2006, notice and the expiration of the maximum statutory period for reply which was September 27, 2006.

It is noted that the *Manual of Patent Examining Procedure*, Section 711.03(c), provides, in pertinent part, that:

> Where an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

It does not appear that there is any dispute as to whether the July 6, 2006, response was sufficient. The petition states that petitioner would rather "re-draw the claims" rather than dispute whether the July 6, 2006, response was fully responsive to the March 27, 2006, non-final Office action. Arguably, this may be considered a concession by petitioner that the response of July 6, 2006, was not fully responsive to the non-final Office action. Petitioner was allowed a maximum statutory period of six months to file a proper

response to the non-final Office action. Where, as in this case, the maximum statutory period expires before the applicant is able to file a proper response and the application becomes abandoned, a petition under 37 CFR 1.137 is the appropriate course of action. The petition to withdraw the holding of abandonment is dismissed accordingly.

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

COPY MAILED

AUG 20 2007

OFFICE OF PETITIONS

In re Application of

Shi, et al. :

Application No. 10/307,063

: DECISION ON PETITION

Filed: November 27, 2002

:

Attorney Docket No. NIH197.001C1

This is a decision on the petition under 37 CFR 1.137(b), filed March 9, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a timely and proper reply the non-final Office action mailed March 27, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on June 28, 2006. A Notice of Abandonment was mailed on February 26, 2007.

The amendment filed March 9, 2007, is noted.

The application is being forwarded to Technology Center 1600, GAU 1646 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-13-07

TO SPE OF : ART UNIT 1774

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/307083 Patent No.: 7186457

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.

Should COSC be approved

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes do not apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE

1774
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

SEP 27 2004

Director's Office
Group 3700

MCHALE & SLAVIN, P.A.
2855 PGA BLVD
PALM BEACH GARDENS, FL 33410

In re Application of
SHETLEY, MICHAEL
Application No.: 10/307,090
Filed: November 29, 2002

DECISION ON PETITION

By papers filed on June 17, 2004, counsel has petitioned to withdraw as attorney of record in this application.

The petition is DISMISSED.

Attention is invited to MPEP 402.06 and 37 CFR 10.40(c). A petition to withdraw as attorney or agent of record should (1) indicate the last known mailing address of the applicant, (2) be signed by all members of the firm or indicate on its face that the member of the firm signing the petition has the authority to withdraw on behalf of all members of the firm, and (3) state the reason(s) for withdrawal as set forth in 37 CFR 10.40(c). The instant petition does not comply with item 1 above.

In regard to item 1, there is no indication in the file that an assignee has established the right to take action in this application. A statement under 37 CFR 3.373(b) has not been found in the application.

It is also noted that the time for responding to the office action has expired.

PETITION DISMISSED.

Linda Sholl

Linda Sholl, Special Program Examiner
Technology Center 3700
(703) 308-1288

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. 9

JOSEPH PAGE
GEOVECTOR CORPORATION
601 MINNESOTA STREET #212
SAN FRANCISCO, CA 94107

COPY MAILED

MAR 1 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Thomas Ellenby, et al.	:	
Application No. 10/307,092	:	ON PETITION
Filed: November 29, 2002	:	
Attorney Docket No..215.46	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 25, 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 June 11, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 12, 2003.

The application file is being forwarded to Technology Center 3600, Art Unit 3662 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

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

Anne V. Dougherty
3173 Cedar Road
Yorktown Heights, NY 10598

Mail Date: 04/21/2010

Applicant	: Myung Mun Bae	: DECISION ON REQUEST FOR
Patent Number	: 7577730	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/307,103	: OF WYETH
Filed	: 11/27/2002	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 9

FITCH, EVEN, TABIN
& FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603

DOCKETED
NOV 04 2003
BY: D. G.

COPY MAILED
OCT 22 2003
OFFICE OF PETITIONS

In re Application of
Grabowski
Application No. 10/307,115
Filed: November 27, 2002
Attorney Docket No. 69443

ON PETITION

This decision concerns the August 11, 2003 petition under 37 CFR 1.137(b) to revive the above-referenced application.

The petition is **DISMISSED as inappropriate**, in that, the application is not abandoned.

On January 16, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Missing Parts of Nonprovisional Application" ("1/16/03 Notice"), stating that the declaration filed with the application was not signed, and that the drawings of Figures 17, 22 and 23 did not comply with 37 CFR 1.84(e).

On Jule 19, 2003 (Certificate of Mailing date June 16, 2003), a signed declaration and a set of substitute drawings were filed along with a request for a 3-month extension of time and the extension-of-time fee, extending the reply period to June 16, 2003. However, the drawings of Figures 17, 22 and 23 were again not accepted, as noted in the July 16 and 18, 2003 Notices of Incomplete Reply (Nonprovisional)" ("7/16/03 and 7/18/03 Notices").

The 7/16/03 and 7/18/03 Notices indicated that the reply period remained that set forth in the 1/16/03 Notice, i.e, 2 months plus 5 additional months' extension of time that may be obtained under 37 CFR 1.136(a). Therefore, Applicant had until August 18, 2003 (Monday) to submit the requested substitute drawings if 2 additional months were obtained under 37 CFR 1.136(a).

The instant petition was accompanied by a set of substitute drawings which have been accepted by the draftsperson. However, upon filing on November 27, 2002, the application included a "General Authorization for Petition for Extension of Time under 37 CFR 1.136(a)(3)," stating that "[i]f Applicant does not timely pay for any extension fee(s) pursuant to 37 CFR 1.136(a) which may become due for this application . . ., the Commissioner is . . . authorized to charge such fee(s) . . . which may be required in the application . . . during its entire pendency . . . to Deposit Account No. 06-1135." Because of this general authorization, the reply period for the 1/16/03 Notice was further extended to August 16, 2003, subsequent to the submission of the required substitute drawings. Consequently, the application did not become abandoned,

rendering the petition to revive subject to dismissal as inappropriate.

The $1,300 petition fee charged to Deposit Account No. 06-1135 on August 12, 2003 has been credited to the same account. In addition, the $1,040 required for the 2-month extension of time[1] for filing the substitute drawings on August 11, 2003 has been charged to the same deposit account as authorized in the November 27, 2002 general authorization.

The application is now complete.

The application file is being forwarded to Technology Center 3600 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions
Office of the Commissioner for Patents

---

[1] $1,970 (5-month extension of time) less $930 (3-month extension of time; charged to the deposit account on 6/19/03).

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/307,115	11/27/2002	Richard Grabowski	69443

22242
FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

DG
Due

CONFIRMATION NO. 9678
FORMALITIES LETTER
OC000000010512415

Date Mailed: 07/18/2003

NOTICE OF INCOMPLETE REPLY (NONPROVISIONAL)

Filing Date Granted

The U.S. Patent and Trademark Office has received your reply on 06/19/2003 to the Notice to File Missing Parts (Notice) mailed 01/16/2003 and it has been entered into the nonprovisional application. The reply, however, does not include the following items required in the Notice.

The period of reply remains as set forth in the Notice. You may, however, obtain EXTENSIONS OF TIME under the provisions of 37 CFR 1.136 (a) accompanied by the appropriate fee (37 CFR 1.17(a)).

A complete reply must be timely filed to prevent ABANDONMENT of the above-identified application.

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121 are required. The drawings submitted are not acceptable because:
  - The drawings must be reasonably free from erasures and must be free from alterations, overwriting, interlineations, folds, and copy marks. See Figure(s) 17, 23.

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY

JAN 2 4 2003

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
10/307,115	11/27/2002	Richard Grabowski	69443

CONFIRMATION NO. 9678

FORMALITIES LETTER

OC000000009381893

22242
FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

Due 3/16/03
D.G.

Date Mailed: 01/16/2003

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.

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121 are required. The drawings submitted are not acceptable because:
    - The drawings must be reasonably free from erasures and must be free from alterations, overwriting, interlineations, folds, and copy marks. See Figure(s) 17,22,23.

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.

Selam

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

JAN 2 4 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
10/307,115	11/27/2002	3611	1376	69443	16	46	5

CONFIRMATION NO. 9678

FILING RECEIPT

OC000000009381892

22242
FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

D. Gr.

Date Mailed: 01/16/2003

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Richard Grabowski, Davisburg, MI;

RECEIVED
FITCH, EVEN, TABIN
JAN 22 2003

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 01/15/2003

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

Title

Seat belt comfort measuring system

Preliminary Class

280

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).

Express Mail No. EV 056748457 US

Application of:
Richard Grabowski

Mailed: **11/27/02**

Atty Dkt. **69443/1610**
SSF/BRM/sjk

Entitled: **SEAT BELT COMFORT MEASURING SYSTEM**

Utility Patent Application Transmittal (3 pages) (in triplicate); including specification and claims (33 pages); informal drawings (16 sheets); Unexecuted Declaration (3 pages); and General Authorization for Petition for Extension of Time Under 37 C.F.R. §1.136(a)(3) (1 page).

Hon. Commissioner of Patents and Trademarks

Sir:

Please acknowledge receipt of the above-identified documents by applying the Patent and Trademark Office receipt stamp hereto and mailing this card.

Respectfully,

FITCH, EVEN, TABIN & FLANNERY

33 U.S. PTO
10/307115
11/27/02

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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FEB 0 2 2006

OFFICE OF PETITIONS

Roche Diagnostics Corporation
9115 Hague Road
PO Box 50457
Indianapolis, IN 46250-0457

In re Application of :
Biryukov, et al. : DECISION ON PETITION
Application No. 10/307,122 :
Filed: November 27, 2002 :
Docket No.: RDID0078DUS :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed January 6, 2006.

This application was held abandoned July 6, 2005 for failure to timely submit a proper reply to the non-final Office action mailed April 5, 2005. Notice of Abandonment was mailed November 16, 2005.

Petitioners assert that a response to the non-final Office action was timely submitted via facsimile on August 3, 2005. Petitioners have submitted as proof of USPTO receipt of the reply a return facsimile indicated receipt on August 3, 2005 as well as a copy of the response bearing a certificate of facsimile transmission in accordance with 37 CFR 1.8. The copy of the response authorizes the Office to charge the required one month extension of time fee to petitioners' deposit account.

The original amendment submitted via facsimile on August 3, 2005 has not been located. However, in view of the evidence presented, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The required petition for extension of time fee has been charged to petitioners' deposit account as authorized.

There is no indication in the official application file wrapper that petitioner was ever empowered to represent the instant patent. If petitioner desires to receive future correspondence regarding this patent, including future maintenance fee notices, the appropriate documentation must be submitted to the Office.

Petitioner is advised that all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

The application file is being forwarded to Technology Center 1600 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: JOHN BREEN
BARNES & THORNBURG
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

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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JJGJr : 12-07

RUDOLPH P. HOFMANN
OPPENHEIMER WOLFF & DONNELLY LLP
45 SOUTH SEVENTH STREET
SUITE 3300
MINNEAPOLIS MN 55402-1609

COPY MAILED

DEC 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Bowman-Amuah	:	
Application No. 10/307,142	:	DECISION
Filed: 27 November, 2002	:	
Attorney Docket No. 60021-376201	:	

This is a decision on the petition filed on 10 May, 2006, and re-filed on 14 September, 2007, under 37 C.F.R. §1.47(b).

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below, the petition under 37 C.F.R. §1.47(b) is **DISMISSED**.

NOTES:

Any reply must include a renewed petition (and fee) must include a petition under 37 C.F.R. §1.47 and must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 C.F.R. §1.47";

[1] NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.

Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record indicates:

- the instant application was filed on 27 November, 2002, without, *inter alia*, a fully executed oath/declaration;

- on 4 February, 2003, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;

- on 29 August, 2003, (Counsel) W. Glenn Edwards (Reg. No. 44,426) submitted, *inter alia*, an incompletely executed oath/declaration (residence data incomplete), without a petition under 37 C.F.R. §1.47(b), however, the Office did not at the time mail a Notice of Incomplete Response;

- on 10 May, 2006, Petitioners Steven C. Lieske (Reg. No. 47,749) and Wayne P. Sobon (Reg. No. 32,438) filed, *inter alia*, the first submission of the instant petition under 37 C.F.R. §1.47(b) (with fee), however, it does not appear that a new oath/declaration was submitted therewith signed as required by law by the authorized agent of the assignee, and Mr. Sobon's statement, and averred interest as well as of irreparable harm/damage, and the documents submitted therewith indicate that on several occasions only the oath/declaration and assignment and not the entire application (description, claims abstract and drawings) were sent to the sole and non-signing inventor, Michael K. Bowman-Amuah (Mr. Bowman-Amuah)—thereafter it appears that the application was released to the Technology Center for examination without first being forwarded to the Office of Petitions for consideration of the 10 May, 2006, petition;

- the record does not reflect that Petitioners addressed and/or inquired about the matter through the non-final and final rejections (19 June, 2006, and 14 February, 2007, respectively), their own filing of a request for continued examination RCE (on 8 June, 2007), or non-final Office action (on 1 August, 2007);

- on 14 September, 2007, Petitioner Christopher R. Hilberg (Reg. No. 48,740) again submitted the instant petition under 37 C.F.R. §1.47(b) (with fee), however, again it does not appear that a new oath/declaration was submitted therewith signed as required by law by the authorized agent of the assignee—rather the incompletely executed document from Mr. Bowman-Amuah was submitted, along with an assignment document (executed only by Mr. Sobon (dated 8 June, however, the year is unclear), and copies of correspondence indicating that finally the entire application (description, claims abstract and drawings) on 25 April, 2005, in a package containing several applications.

Notably, the address submitted by Petitioners is several years old and Petitioners should provide what they, after diligent inquiry, believe to be a valid/current/reasonably believed to be last known address for the non-signing inventor.

ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

> **§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**
>
> ***
>
> (b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in § 1.17(g), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with § 1.63.
>
> * * *

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

> **§1.63 Oath or declaration.**
> (b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:
>
> (1)Identify the application to which it is directed;
>
> (2) State that the person making the oath or declaration has reviewed and understands the contents of the application, Including the claims, as amended by any amendment specifically referred to in the oath or declaration; and
>
> (3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

When one alleges a refusal of the inventor to sign the application papers, 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, *inter alia*, presented the inventor with the application papers and/or to

whom the refusal was made. Petitioner is directed to the commentary at MPEP §409.03(d), which provides in pertinent part:

> 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.

Further, the guidance in the Commentary at MPEP §409.03(b)(A) and (B) provide in pertinent part:

> ***
>
> In addition to other requirements of law (35 U.S.C. §§111(a) and 115), an application deposited pursuant to 37 C.F.R. §1.47(b) must meet the following requirements:
>
> (A)The 37 C.F.R. §1.47(b) applicant must make the oath required by 37 C.F.R. §1.63 and §1.64 or §1.175. Where a corporation is the 37 C.F.R. §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 U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent 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 § 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). Where an application is executed by one other than the inventor, the declaration required by 37 C.F.R. §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 C.F.R. §1.47(b).
>
> (B)The 37 C.F.R. §1.47(b) applicant must state his or her relationship to the inventor as required by 37 C.F.R. §1.64. (Emphasis supplied.)
>
> ***

Thus, Petitioner must submit an executed oath/declaration and support that document by a certificate under 37 C.F.R. §3.73(b).

Moreover, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application–and evidence of that transmittal submitted–but also a reasonable effort must be made to ascertain a current or last known address, which information is to appear over the signature and registration number of the Petitioner along with evidence of the due diligence effort ascertaining same.

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

(The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[3])

Petitioner's attention is directed to the discussion in the BACKGROUND and ANALYSIS, above, and should ensure that the deficiencies addressed there are corrected with any future petition herein, to include (but not necessarily be limited to) the requirements that a copy of the transmittal letter forwarding the entire application (description, claims, abstract and drawings) to, and evidencing reasonable diligence in ascertaining a reasonably believed last known/current address for the non-signing inventor, all as required by law.

Thus, any renewed petition by Petitioner must include:

- the required signed oath/declaration and showing under 37 C.F.R. §3.73(b);
- demonstrated due diligence as required to ascertain an address to be used/supplied for the non-signing inventor (i.e., a residence address) is current or at the very least the most reasonably believed to be last known address for the non-signing inventor.

It is suggested that Petitioners might review and move stepwise through the guidance in the Commentary at MPEP §409.03, et seq., and satisfy themselves that all the elements have been addressed completely.

CONCLUSION

Therefore, the instant petition hereby is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[4]

---

[3] See: MPEP 409.03(b).

Application No. 10/307, 142

By mail: Commissioner for Patents[5]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[4] On July 15, 2005, the Central Facsimile (FAX) Number changed from (703) 872-9306 to (571) 273-8300. Old number(s) no longer are in service and (571) 273-8300 is the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[5] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

[6] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

Accenture/Finnegan, Henderson,
Farabow, Garrett & Dunner, LLP
901 New York Avenue
Washington DC 20001-4413

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OFFICE OF PETITIONS

In re Application of	:	
Bowman-Amuah	:	
Application No. 10/307,142	:	ON APPLICATION FOR
Filed: November 27, 2002	:	PATENT TERM ADJUSTMENT
Docket No. 10761.0467-00000	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT BEFORE PAYMENT OF ISSUE FEES, filed December 15, 2009. The correspondence will be treated under 37 CFR 1.705(b) Applicant submits that the correct patent term adjustment to be indicated on the patent is nine hundred thirty-two (932) days, not five hundred seventy-eight (578) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). This is true even where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined.

As such, the Office 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 he 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].

Pursuant to applicant's authorization, 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) will be charged to deposit account no. 06-0916.

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

OWENS-ILLINOIS, INC.
ONE MICHAEL OWENS WAY
THREE O-I PLAZA
PERRYSBURG OH 43551-2999

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OFFICE OF PETITIONS

In re Application of	:	
Lohrman, Richard D.	:	
Application No. 10/307,148	:	DECISION ON PETITION
Filed: November 27, 2002	:	
Attorney Docket No. 3754 USA	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 28, 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 January 7, 2008, as required by the Notice of Allowance and Fee(s) Due mailed October 5, 2007. Accordingly, the application became abandoned on January 8, 2008. A Notice of Abandonment was mailed January 29, 2008.

The petition 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 fee, (2) the petition fee, and (3) a proper statement of unintentional delay.

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.

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.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: REISING, ETHINGTON, BARNES,
KISSELLE, LEARMAN & MC CULLOCH P.C.
P.O. BOX 4390
TROY, MI 48099

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Charles E. Lykes, Jr., Esq.
Suite 101
501 S. Ft. Harrison Ave.
Clearwater FL 33756-5317

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OFFICE OF PETITIONS

In re Application of	:
Szumlic et al.	:
Application No. 10/307,157	: ON PETITION
Filed: December 1, 2002	:
Attorney Dck't. No. 97054-IP	:

This is a decision on the petition filed August 24, 2004 by facsimile transmission and on September 1, 2004, by mail, requesting "enlargement of the time for response [to the Office action dated February 24, 2004]" which is being treated as a petition under 37 CFR 1.183 to waive the rules.

The petition is **dismissed**.

Petitioner (counsel of record), who is also a reservist in the armed forces, seeks extraordinary relief in that he was notified on or about November 20, 2003 that he was being activated and was to report to Pensacola FL on December 1, 2003, and thereafter to Fort Bragg NC on 1/1/04, for eventual participation in operation IRAQI FREEDOM not to exceed 545 days. Petitioner further asserts that he actually expected to be rather quickly returned–by June 2004-- to civilian life to resume his vocation as a registered practitioner, but in the interim, became aware (in March 2004) of the outstanding Office action mailed February 24, 2004 and was not able to obtain a copy until June 2004. Petitioner variously requests "enlargement" of the time to reply, or suspension of examination for 6 months to permit a response to the aforementioned Office action.

As set forth in 37 CFR 1.103, however, suspension of examination is proscribed if there is an outstanding office action. Since, on August 24, 2004, there was an unanswered Office action, any request for suspension of prosecution was simply not grantable under the terms of the rule. Rather, applicant had to have prepared and filed a timely reply and could additionally filed a petition under the rule for suspension. The petition that was filed on August 24, 2004, even construed in a light most favorable to petitioner, was simply not a reply within the meaning of 37 CFR 1.111 and § 1.135 to the outstanding Office action. Note further the terms of 37 CFR 1.181(f):

> The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice

from which relief is requested may be dismissed as untimely, except as otherwise provided.

Accordingly, the petition could not operate in of itself to toll the period for reply. Indeed, there is as of yet no reply of record to the outstanding office action.

Turning to the alternate request for "enlargement" of the period for reply: the period for reply to that action, as noted in the cover sheet of that action, is governed by the terms of 35 U.S.C. § 133. However, § 133 specifically limits the maximum period for reply to an Office action to six months. Thus, the maximum "enlargement" of the period for reply to the Office action of February 24, 2004 is six months, or until August 24, 2004. The USPTO has no power to waive or "enlarge" the period for reply here, as such is, by law, not extendable for more than six months from the mailing of the Office action. See 35 U.S.C. § 133. Rather, since the maximum term is limited by law to be six months, the USPTO simply has neither the discretion or the power to relax any requirement of that law. 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).

Even assuming that the USPTO has any discretion in this matter, the circumstances of this case would not warrant "enlargement" i.e., waiver of the period, or equitable tolling of the period. In order for grant of any petition under 37 CFR 1.183, petitioner must show (1) that this is an extraordinary situation where (2) justice requires waiver of the rule. In re Sivertz, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985). Petitioner has not shown that either condition exists in this case.

A review of the record reveals that petitioner received his mobilization notice on or about November 20, 2003, while the Office action in question was not mailed until February 24, 2004. That is, petitioner had in excess of three months to submit a petition under 37 CFR 1.103, say, section (d), which would have permitted deferred examination for up to three years. Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable, due care and diligence. U.S. v. Lockheed Petroleum Services, 709 F.2d 1472, 1475 (Fed. Cir. 1983). Petitioner had sufficient time after receipt of the notice to file a petition, or even seek the assistance of another registered practitioner in filing such a request, or in according associate power to another practitioner. The undue delay in filing any paper in this case is not seen to warrant equitable tolling of the period set forth in 37 CFR 1.136(a), as the delay in seeking relief from the Office action is strictly due to petitioners' mistake or inaction. See Vincent v. Mossinghoff, 230 USPQ 621, 625 (D.D.C. 1985); U.S. v. Lockheed, supra. The Office, where it has the power to do so, should not relax the requirements of established practice in order to save an applicant from the consequence of his delay. See Ex parte Sassin, 1906 Dec. Comm'r Pat. 205, 206 (Comm'r Pat. 1906) and compare Ziegler v. Baxter v. Natta, 159 USPQ 378 379 (Comm'r Pat. 1968) and Williams v. The Five Platters, Inc.,510 F.2d 963, 184 USPQ 744 (CCPA 1975).

Thus, there is no adequate showing of "an extraordinary situation" in which "justice requires" suspension of the time period set forth in 37 CFR 1.192(a). See, Nitto Chem. Indus. Co. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (circumstances are not

extraordinary, and do not require waiver of the rules, when a party makes an avoidable mistake in filing–or not filing-- papers). Circumstances resulting from petitioners', or petitioners' counsel's, failure to exercise due care, or lack of knowledge of, or failure to properly apply, the patent statutes or rules of practice are not, in any event, extraordinary circumstances where the interests of justice require the granting of relief. See, In re Tetrafluor, Inc., 17 USPQ2d 1160, 1162 (Comm'r Pats. 1990); In re Bird & Son, Inc. 195 USPQ 586, 588 (Comm'r Pats. 1977). It is only thru petitioner's lack of diligence in filing a request under 37 CFR 1.103 for suspension of prosecution that he now must seek "enlargement" of the time to reply set forth in 37 CFR 1.136(a). However, since petitioner is both a reservist and a registered practitioner, who may be subject to, as here, sudden and extended mobilization, it is not clear why petitioner did not align himself with another registered practitioner(s), or even why such a circumstance was beyond petitioner's control.

It is brought to petitioner's attention that the PTO will not normally consider an extraordinary remedy, when the rules already provide an avenue for obtaining the relief sought. See Cantello v. Rasmussen, 220 USPQ 664, 664 (Comm'r Pat. 1982). Further in this regard, a standard principle of statutory construction is: *expressio unius est exclusion alterius* (the mention of one thing implies exclusion of another thing), namely absent legislative intent to the contrary, when a statute expressly provides a specific remedy for a specific situation, the statute is deemed to exclude other remedies for such situation. See National R.R. Passenger Corp. v. National Ass'n Of R.R. Passengers, 414 U.S. 453, 458 (1974); see also Botany Worsted Mills v. United States, 278 U.S. 282, 289 (1929)("when a statute limits a thing to be done in a particular mode, it includes the negative of any other mode"). That is, the patent statute at 35 U.S.C. § 41(a)(7), and § 133 (and their promulgating regulation 37 CFR 1.137) provides a specific mechanism whereby an applicant may petition the USPTO to accept a reply that was unavoidably, or unintentionally, delayed. Since there is a specific mechanism in place to remedy a belated reply, then it is inappropriate for the USPTO to contemplate circumventing that mechanism by creating another remedy *e.g.*, by "enlarging' the period for reply.

Lastly, petitioner points to several sections of the public law and contends that they control in this instance. While these sections provide for and strengthen the national defense, they nevertheless are drawn to the preservation, in certain cases, of the civil rights of persons while in military service. The civil rights of the applicants are not in question here and the applicants have not been shown to be in military service; rather it is their registered practitioner who is in military service and there is no adequate showing that the public laws to which petitioner refers operate to trump the statutory provisions of 35 U.S.C. §133.

The petition (under 37 CFR 1.136(a)) and accompanying fee for a three month extension of time to respond to the Office action mailed February 24, 2004, that was received September 1, 2004, cannot be accepted, as a petition for an extension of time cannot be granted after the expiration of the statutory period. In re Application of S, 8 USPQ2d 1630, 1631 (Comm'r Pat. 1988). Accordingly, petitioner may request a refund of that fee, or simply ask that it be reapplied towards any further fees that may arise in this case.

This application is being brought to the attention of the Technology Center.

Telephone inquiries relative to this decision should be directed to the undersigned at (703) 305-1820.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Charles E. Lykes, Jr., Esq.
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Clearwater FL 33756-5317

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OFFICE OF PETITIONS

In re Application of :
Szumic and Gallagher :
Application No. 10/307,157 : ON PETITION
Filed: December 1, 2002 :
Attorney Docket No. 97054IP :

This is a decision on the petition under 37 CFR 1.137(a) filed March 4, 2005.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed February 24, 2004. The non-final Office action set shortened statutory period for reply of three months from its mailing date. The record reflects that a request for an extension of time within the third month was received on September 1, 2004 (certificate of mailing dated August 24, 2004), however; no reply to the non-final Office action was received with the reply and the application became abandoned on August 25, 2004. A Notice of Abandonment was mailed on January 25, 2005.

The response filed March 4, 2005, is noted.

The fee for the instant petition is $250.00. The petition fee will be retained from amounts previously paid by petitioner that are in excess of what was actually due. Petitioner will be refunded a duplicate payment for a petition fee of $130.00 and $225.00 remaining from a duplicate payment of $475.00 for an extension of time within the third month.

The file is now being forwarded to Technology Center 3600, GAU 3632 for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Paper No. 5

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FEB 2 5 2003

OFFICE OF PETITIONS

In re Application of Pardridge, et al. Application No. 10/307,165 Filed: November 27, 2002 Attorney Docket No. 0180.0027	: : : : :	ON PETITION

This is a decision on the "Petition to Correct Filing Date", filed January 21, 2003 (Certificate of Mailing dated January 13, 2003), which is being treated as a petition under 37 CFR 1.10 to accord the above-identified application a filing date of November 27, 2002. The application had erroneously been accorded a filing date of November 29, 2002.

The petition is **GRANTED**.

Application papers in the above-identified application were filed via Express Mail (Express Mail Number EU102709736US) on November 27, 2002. A review of the Office Express Mail records confirms that the above identified application was deposited with the USPS on January 27, 2002.

Given the basis for granting the petition, no petition fee was required, and none has been charged.

Applicant is reminded that a reply is due to the Notice to File Missing Parts mailed on January 22, 2003.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to **November 27, 2002.**

Telephone inquiries related to this decision should be directed to Petitions Attorney Cliff Congo at 703-305-0272.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: USPTO's USPS Express Mail Database record (1 page)

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SEP 26 2005

Steven Horowitz
Counselor At Law
Suite 700
295 Madison Avenue
New York, NY 10017

In re application of	:	**DECISION ON PETITION**
Alvin Konigsberg	:	**TO MAKE SPECIAL**
Application No. 10/307,166	:	**(APPLICANT'S AGE)**
Filed: November 29, 2002	:	
For: METHOD OF OPERATING A SAVINGS	:	
PLAN FOR HEALTH CARE SERVICES	:	

This is a decision on the petition submitted on August 29, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Konigsberg indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED** .

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/dew: 09/07/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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AUG 23 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

JAMES DRIESSEN
VIBME PARTNERSHIP
305 N. 1130 E
LINDON, UT 84042

In re Application of:
Eric Smith
Application No. 10/307,170
Filed: November 27, 2002
For: **INCONSPICUOUS TACTILE NOTIFICATION FOR SPEAKING ENGAGEMENTS**

DECISION
ACCEPTING PAPERS

This is in response to the petition filed on June 24, 2005, requesting that the Appeal Brief submitted to the Office on June 1, 2005, which is a copy of the Appeal Brief filed January 5, 2005, be accepted as having been timely filed in the subject application in response to the Notice of Appeal filed November 9, 2004.

Petitioner alleges to have timely filed an Appeal Brief on January 5, 2005. In support, Petitioner has provided a copies of an Appeal Brief (39 pages) with the Appendix 1 (2 pages) and Appendix 2 (12 pages), a transmittal containing a Certificate of Mailing bearing a mail date of January 5, 2005 and a copy of the Express Mail label with tracking number ER 982262359 US, a copy of credit card transaction detail, and a copy of a postal service receipt bearing a date of January 5, 2005.

A review of the file record reveals that the Appeal Brief accompanying the instant petition is not the original copy of the Appeal Brief that was submitted on June 1, 2005 since 2 pages of the Appendix 2 are missing and the Express Mail Label has been altered. It is unclear whether either transmittal containing the Certificate of Mailing and Express Mail label was the actual transmittal paper submitted with the original Appeal Brief on January 5, 2005. Hence, the contents of the submission on January 5, 2005 cannot be ascertained. In addition, petitioner submits a copy of the credit card transaction detail, but devoid of a request to charge payment of Appeal Brief fee. Furthermore, a review of the US Patent and Trademark Revenue, Accounting and Management (RAM) records do not show that an amount of $200.00 was applied toward the application on January 12, 2005. Note that the fee for filing an appeal brief is $250.00 for a small entity. Thus, the amount of $200.00 would not have been sufficient for filing an appeal brief.

For the reasons above, neither Appeal Brief received on June 1, 2005 and on June 24, 2005 is accepted as timely. The petition is **DENIED.**

Even if the paper were accepted as timely, a fee in the amount of $200 is not sufficient amount for filing an appeal brief. See 37 C.F.R. 1.192 below:

37 C.F.R. 1.192 Appellant's brief.
(b) On failure to file the brief, accompanied by the requisite fee, within the time allowed, the appeal shall stand dismissed.

In accordance with the above stated section from the M.P.E.P, the appeal stands dismissed. Since the time for reply to the final Office action mailed July 9, 2004 has expired and a proper Appeal was not filed, the application is abandoned.

Any request for reconsideration including necessary evidence must be submitted within TWO (2) Months from the mailing date of this decision. Extensions of time under 37 CFR 1.136(a) are not permitted. Evidence includes a complete true copy of the Appeal Brief filed January 5, 2005 containing proof of timely submission, a request to charge credit card for a sufficient fee for filing an appeal brief and evidence of sufficient fee submitted and timely charged for filing an appeal brief.

Alternatively, petitioner may wish to petition under 37 C.F.R. 1.137, with appropriate fee, to the Office of Petitions to revive the subject application.

Doris To
Special Program Examiner
Technology Center 2600
Communications

SCANI **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/24/07

TO SPE OF : ART UNIT 2812 Spe Lebentritt Michael (Sp)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/307189 Patent No.: 7074677

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

MICHAEL LEBENTRITT
SUPERVISORY PATENT EXAMINER

SPE

2812
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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SEED INTELLECTUAL PROPERTY LAW GROUP, PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE, WA 98104

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DEC 26 2007

OFFICE OF PETITIONS

In re Patent No. 7,047,235	:	
Issue Date: May 16, 2006	:	
Application No. 10/307,190	:	ON PETITION
Filed: November 29, 2002	:	
Patentee(s): Guo Liang Yang, et. al.	:	

This is a decision on the request for Certificate of Correction, filed January 8, 2007, which is being treated as a request under 37 CFR 3.81[1], to add a second name of an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

Since the processing fee of $130 is required for treatment of the present request and $100 is required for the Certificate of Correction, those fees have been charged to petitioner's deposit account, as authorized.

Since the requirements of 37 CFR 3.81 have been met, the request is **GRANTED**.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

---

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RAJ S. DAV'E
MORRISON & FOERSTER
1650 TYSONS BOULEVARD
SUITE 300
McLEAN, VA 22102

COPY MAILED

MAY 1 8 2004

OFFICE OF PETITIONS

In re Application of :
Wei Li et al :
Application No. 10/307,201 : NOTICE
Filed: November 27, 2002 :
Attorney Docket No. 549202000220 :

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 1712.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

MAY 4 2006

In re Application of: GREGORIS	:	
Application No. 10/307,207	:	NOTICE OF WITHDRAWAL
Filed: 11/27/2002	:	FROM ISSUE
Attorney Docket No. **AAAIS.001A**	:	UNDER 37 CFR δ 1.313
	:	

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR δ 1.313.

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed 06/29/2005, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Telephone inquires should be directed to Judy Nguyen at (571) 272-2258.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Arthur Grimley, Acting Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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

SHOOK, HARDY & BACON L.L.P.
(INTERMEC TECHNOLOGIES CORPORATION)
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BLVD.
KANSAS CITY, MO 64108

Mail Date: 04/21/2010

Applicant	: Darrell L. Boatwright	: DECISION ON REQUEST FOR
Patent Number	: 7580395	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/307,221	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/29/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1551** 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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RYAN KROMHOLZ & MANION, S.C.
POST OFFICE BOX 26618
MILWAUKEE, WI 53226

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JUL 1 5 2005

OFFICE OF PETITIONS

In re Application of :
Lee Bolduc, et al. :
Application No. 10/307,226 :
Filed: November 29, 2002 :
Attorney Docket No. 9494.17965-CIP :

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 15, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed nonprovisional application No. 10/271,334, filed October 15, 2002.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The "amendment" as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the instant petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each

distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

In view of the above, a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3), must be submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop PETITION
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Any questions concerning this matter may be directed to Sherry D. Brinkley at (571) 272-3204.

Sherry D. Brinkley
Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks
Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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RYAN KROMHOLZ & MANION, S.C.
Post Office Box 26618
MILWAUKEE, WI 53226

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DEC 2 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Lee Bolduc, et al.	:	
Application No. 10/307,226	:	DECISION ON PETITION
Filed: November 29, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 9494.17965-CIP	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed July 25, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of a prior-filed nonprovisional application No. 10/271,334.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;[1]

(2) the surcharge set forth in § 1.17(t); and

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

(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 satisfies all of the above requirements.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

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 application is entitled to the benefit of the prior-filed application(s). In order for the application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

This application is being forwarded to Technology Center Art Unit 3731 for consideration by the Examiner of the amendment filed July 25, 2005, including applicant's claim under 35 U.S.C. §120 and 37 CFR 1.78(a)(1) and (2) for the benefit of priority to the prior-filed nonprovisional application No. 10/271,334.

Telephone inquiries related to this decision should be directed to Sherry D. Brinkley at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances M. Hicks
Lead, Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Corrected Filing Receipt

#6

UNITED STATES PATENT & TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
Washington, D.C. 20231

PATENT & TRADEMARK OFFICE
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MAY 20 2003

LICENSING & REVIEW

Knobbe Martens Olson & Bear LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

In re Application of: Breyer et al

For Serial No. 10/307,247
Filed: November 27,2002

DECISION ON
REQUEST FOR
RECONSIDERATION

For: **METHOD FOR RETROFITTING CONCRETE STRUCURES**

This is a decision on the REQUEST FOR RECONSIDERATION filed April 2, 2003, responding to the Forty-Five mailed March 19, 2003.

The request is **Granted.**

No further action is required regarding this issue.

Joanne P. Hodge
Supervisory Legal Instruments Examiner
Licensing and Review
Patent Technology Center 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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DIW Sep-06

Paper No. 7

DONALD L. WENSKAY
132 NORTH E1 CAMINO REAL
ENCINITAS CA 92024

COPY MAILED
SEP 05 2006
OFFICE OF PETITIONS

In re Application of	:	
Ronald E. Moody	:	
Application No. 10/307,266	:	DECISION ON PETITION
Filed: 27 November, 2002	:	
Atty Docket No. 00082-001001	:	

This is a decision on the petition filed on 3 April, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 25 March, 2003, for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application mailed on 24 January, 2003, which set

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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)).

a two (2) month shortened period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 28 January, 2004.

This application is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SAK / MHO

UNITED STATES PATENT AND TRADEMARK OFFICE

Paper No. 7

BANNER & WITCOFF, LTD.
1001 G STREET, N.W.
WASHINGTON, DC 20001

DEC 06 2001

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DEC 03 2001

OFFICE OF PETITIONS

jc979 U.S. PTO
10/307284
12/02/02

In re Application of
Mark J. Cooper et al.
Application No. 09/867,693
Filed: May 31, 2001
For: LYOPHILIZABLE AND ENHANCED COMPACTED NUCLEIC ACIDS

: DECISION GRANTING
: STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed November 13, 2001.

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 Irvin Dingle at (703) 306-5684.

This application is being forwarded to Technology Center 1600.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

63659.00009
DOCKETED

DEC 06 2001
NOTED

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 8

MAUREEN COSTELLO
102 NORTH MANSFIELD AVENUE
MARGATE CITY, NJ 08402

COPY MAILED

DEC 0 3 2001

OFFICE OF PETITIONS

jc979 U.S. PTO
10/307284
12/02/02

In re Application of
Mark J. Cooper; Murali K. Pasumarthy; Tomasz H. Kowalczyk; Maureen Costello
Application No. 09/867,693
Filed: May 31, 2001
For: LYOPHILIZABLE AND ENHANCED COMPACTED NUCLEIC ACIDS

Dear Dr. Costello:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the Irvin Dingle at (703) 306-5684. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Banner & Witcoff, Ltd.
1001 G Street, NW
Washington, DC 20001

SAK / MHO

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

BANNER & WITCOFF, LTD.
1001 G STREET, N.W.
WASHINGTON, DC 20001

DEC 06 2001

BANNER & WITCOFF LTD.

COPY MAILED

DEC 03 2001

OFFICE OF PETITIONS

In re Application of
Mark J. Cooper et al.
Application No. 09/867,693
Filed: May 31, 2001
For: LYOPHILIZABLE AND ENHANCED COMPACTED NUCLEIC ACIDS

: DECISION GRANTING
: STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed November 13, 2001.

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 Irvin Dingle at (703) 306-5684.

This application is being forwarded to Technology Center 1600.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

63659.00009
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DEC 06 2001
NOTED

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 8

MAUREEN COSTELLO
102 NORTH MANSFIELD AVENUE
MARGATE CITY, NJ 08402

COPY MAILED

DEC 0 3 2001

OFFICE OF PETITIONS

In re Application of
Mark J. Cooper; Murali K. Pasumarthy; Tomasz H. Kowalczyk; Maureen Costello
Application No. 09 867,693
Filed: May 31, 2001
For: LYOPHILIZABLE AND ENHANCED COMPACTED NUCLEIC ACIDS

Dear Dr. Costello:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the Irvin Dingle at (703) 306-5684. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Banner & Witcoff, Ltd.
1001 G Street, NW
Washington, DC 20001

COMMISSIONER FOR PATENTS
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Paper No. 6

BANNER & WITCOFF
1001 G STREET N.W.
SUITE 1100
WASHINGTON, DC 20001

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MAY 1 9 [illegible]

OFFICE OF PETITIONS

In re Application of :
Cooper, et al. :
Application No. 10/307,284 : ON PETITION
Filed: December 2, 2002 :
Attorney Docket No. 003659.00026 :
For: LYOPHILIZABLE AND ENHANCED :
COMPACTED NUCLEIC ACIDS :

This decision is in response to the petition filed under 37 CFR 1.47(a) filed March 13, 2003.

The petition under 37 CFR 1.47(a) is hereby **GRANTED**.

The instant application is a continuation of 09/867,693. In accordance with 37 CFR 1.63(d), petitioner has submitted a copy of the executed oath or declaration filed in Application No. 09/867,693 filed May 31, 2001. Furthermore, a copy of a decision, mailed December 3, 2001, granting a petition to accord Rule 1.47(a) status to the prior application has been placed in the file of the present application.

As Rule 1.47(a) status was granted in the prior application, this application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), since notice was provided after the grant of Rule 1.47(a) status in the prior application, the Office is dispensing with the notice provision in this continuation application.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : July 09, 2008

TO SPE OF : ART UNIT 2615

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/307290 Patent No.: 7336794 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____ Approved by SPE _____ /Vivian Chin/

AU2615 _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEC 27 2006

C. IRVIN MCCLELLAND
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of: YASHIMA, NOBORU, et al.	:
Appl. No.: 10/307,318	: DECISION ON PETITION
Filed: Dec. 2, 2002	: Under 37 CFR 1.181
Attorney Docket Number: 231333US3	:
For: CAP	:

This is a decision on the petition filed on March 8, 2005 requesting a refund of the five-month extension of time fee paid regarding an Office action of Sep. 8, 2004 that was never re-mailed after returned by the U.S. Post Office on Sept. 10, 2004.

The petition is **GRANTED**.

The record shows the following:

1. On Sep. 8, 2004, the examiner issued an Office action for a restriction requirement with one month to respond.
2. The U.S. Post Office returned the mail to the Office on Sep. 10, 2004. Subsequently, the Office failed to re-mail the returned Office action of Sep. 8, 2004.
3. According to the current petition, the applicant discovered non-receipt of the outstanding Office action from a conversation with the Examiner Smalley on Feb. 23, 2005. The applicant obtained a copy of the outstanding Office action from the Patent Application Information Retrieval (PAIR) system.
4. On March 8, 2005, applicant submitted a response to the restriction requirement of Sep. 8, 2004 and payment for a five-month extension of time fee, $2,160.00.
5. On Mar. 8, 2005, the current petition was filed asking for a refund of the extension of time fee.

A review of the record shows that Office action for a restriction requirement of Sep. 8, 2004 was never re-mailed by the Office after the U.S. Post Office returned the mail on Sep. 10, 2004. No new Office action was subsequently issued as soon as the error was discovered. The applicant could have waited for the Office to re-mail the Office action of Sep. 8, 2005 and timely filed a response without paying any extension of time. The extension of time would have been unnecessary. However, in order to expedite the prosecution, the applicant obtained a copy of the

Office action from PAIR system and filed a response with a five-month extension of time fee. Under the circumstances, a refund of the extension of time fee of $2,160 is allowed in accordance with 37 C.F.R. 1.26.

For the foregoing reasons, the relief requested by petitioner is granted. Particularly, the refund of the $2,160 extension of time fee will be granted in view of the non-receipt of the Office action and failure to re-mail the Office action of Sep. 8, 2004. Refund of $2,160.00 will be credited to Attorney's Deposit Account No. 15-0030. The application is being forwarded to the Supervisory Application Examiner for processing of refund.

Should petitioner have any further questions, he is invited to contact TC 3700 SPRE Henry Yuen at 571-272-4856.

PETITION GRANTED.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

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DEC 2 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Lin et al.	:	
Application No. 10/307,337	:	ON PETITION
Filed: December 2, 2002	:	
Attorney Docket No. LIN194	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3282.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

02 MAR 2004

#7

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George F. Lehnigk
Sughrue Mion, PLLC
2100 Pennsylvania Avenue, NW
Washington, D.C. 20037-3213

In re Application of	:	
GUNTERSDORFER, Max, et al.	:	
Application No.: 10/307,366	:	
For: REMOTE-READABLE	:	DECISION
IDENTIFICATION TAG AND	:	
METHOD FOR OPERATING	:	
THE SAME	:	

Applicant's "Petition To Revive Under 37 CFR 1.137(b) and Payment of Fee Under 37 CFR 1.17(m)," filed in the United States Patent and Trademark Office on 02 December 2002, is DISMISSED. Moreover, applicant's claim to benefit of filing date of prior application PCT/DE00/03822 under 35 USC 365(c) is MOOT.

BACKGROUND

On 02 December 2002, applicant filed a transmittal letter for a "continuation application," under 35 U.S.C. 111(a) and 37 CFR 1.53, of international application PCT/DE00/03822, including a claim to the benefit of filing date of this earlier international application under 35 USC 365(c). These application papers were accompanied by, *inter alia*, a translation of the international application, the basic national fee, and an inventor declaration. On 02 December 2002, applicant also filed a petition fee and a petition to revive this international application for failure to timely file the "continuation application" by the thirty month national stage deadline of midnight on Monday, 06 May 2002.

On 06 November 2000, applicant had filed international application number PCT/DE00/03822, claiming priority to an earlier German application, which had been filed on 05 November 1999. The international application was published and transmitted to the United States of America on 05 May 2001. A demand had been timely filed, electing the United States of America, on 26 July 2001. However, applicant's international application was considered generally withdrawn by the German Patent Office, in its capacity as Receiving Office, effective 07 December 2001, for failure to pay at least one designation fee. See the attached copies of the PCT/IB/325 and PCT/RO/117 for international application PCT/DE00/03822.

DISCUSSION

The effect of an international application designating the United States is set forth in 35 USC 363, which states that "[a]n international application designating the United States shall have

the effect, from its international filing date under article 11 of the treaty, of a national application for patent regularly filed in the Patent and Trademark Office." As relevant in this Decision, the consequences of a withdrawn application are set forth in 35 USC 366, which states that "if an international application designating the United States is withdrawn or considered withdrawn, either generally or as to the United States, under the conditions of the treaty and the Regulations, before the applicant has complied with the applicable requirements prescribed by section 371(c) of this part, the designation of the United States shall have no effect after the date of the withdrawal and shall be considered as not having been made, unless a claim for benefit of a prior filing date under section 365(c) of this section was made in a national application . . . filed before the date of such withdrawal." Among other requirements, section 371(c) requires payment of the national fee under section 371(c)(1), provision of a translation of a non-English language international application under section 371(c)(2), and provision of an inventor declaration under section 371(c)(4).

Although designating the United States, international application PCT/DE00/03822 was withdrawn generally on 07 December 2001. Payment of the national fee, provision of a translation of the international application, and provision of the inventor declaration occurred on 02 December 2002. Hence, all of the requirements of 35 USC 371(c) were not satisfied prior to the withdrawal of the international application. Furthermore, applicant's national application, 10/307,666, that claims benefit of prior filing date of PCT/DE00/03822 under section 365(c), was filed after the withdrawal date on 02 December 2002. Therefore, with respect to international application PCT/DE00/03822, by the terms of 35 USC 366, the designation of the United States shall have no effect after 07 December 2001 and shall be considered as not having been made.

Since the designation of the United States in international application PCT/DE00/03822 is considered as not having been made, international application PCT/DE00/03822 does not qualify under 35 USC 363 as a national application for patent regularly filed in the Patent and Trademark Office.

Applicant has filed a petition to revive international application PCT/DE00/03822 on the grounds of unintentional abandonment of this application under 37 CFR 1.137(b) for failure to file applicant's "continuation application" by the thirty month national stage deadline of midnight, 06 May 2002. However, with respect to the United States of America, this application does not qualify as a national application for patent and hence could not become abandoned. Such a non-existent application cannot be revived by meeting the requirements of 37 CFR 1.137(b). The petition is therefore dismissed.

Applicant's claim to benefit of filing date of prior application PCT/DE00/03822 is governed by 35 USC 365(c), which points to the requirements and conditions of 35 USC 120 as determining entitlement to benefit of prior filing date. According to 35 USC 120, "[a]n application for patent for an invention disclosed . . . in an application previously filed in the United States, or as provided by section 363 of this title, which is filed by an inventor or inventors named in the previously filed application shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before patenting or abandonment of or termination of

proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application." For applicant to obtain the benefit of filing date of a prior application, there had to exist a prior application. For the reasons already discussed above, international application PCT/DE00/03822 cannot qualify under 35 USC 363 as a prior application. The benefit claim is therefore moot. The description of this application as a "continuation application" of PCT/DE00/03822 is improper and should be deleted.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is DISMISSED. No fee is due.

Applicant's claim to benefit of filing date of prior application under 35 USC 365(c) is MOOT. Applicant's application is not a "continuation application" of international application PCT/DE00/03822.

This application is being forwarded to the Office of Initial Patent Examination for continued processing.

Michael La Villa
Detailee
Office of PCT Administration
Telephone (703) 308-6162
Facsimile (703) 308-6459

Leonard Smith
PCT Legal Examiner
Office of PCT Administration
Telephone: (703) 308-6461
Facsimile: (703) 308-6459

Enclosure:

PCT/IB/325 for PCT/DE00/03822
PCT/RO/117 for PCT/DE00/03822, dated 07 December 2001
PCT/RO/117 blank form in English

File copy

105

PATENT COOPERATION TREATY

From the INTERNATIONAL BUREAU

PCT

NOTIFICATION THAT INTERNATIONAL APPLICATION CONSIDERED TO BE WITHDRAWN

(PCT Article 14(1), (3) or (4) and Rule 29.1)

To:

AU,CA,EP,KR,NO,US

in its capacity as designated Office

Date of mailing (day/month/year) 07 December 2001 (07.12.01)	**IMPORTANT NOTIFICATION**
International application No. PCT/DE00/03822	International filing date (day/month/year) 27 October 2000 (27.10.00)
Applicant SIEMENS AKTIENGESELLSCHAFT et al	

1. The International Bureau hereby gives notice that the receiving Office has, on the date indicated below, notified to the applicant that the international application is to be considered withdrawn:

   07 December 2001 (07.12.01)

2. [X] A copy of this notification has been sent to the International Preliminary Examining Authority.

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No.: (41-22) 740.14.35	Authorized officer Dorothée MÜLHAUSEN Telephone No.: (41-22) 338.83.38

PATENT COOPERATION TREATY

From the RECEIVING OFFICE

To:	PCT NOTIFICATION THAT INTERNATIONAL APPLICATION CONSIDERED TO BE WITHDRAWN (PCT Article 14(1) or (3) and Rule 12.3(d), 29.1 or 92.4(g)(i))
	Date of mailing *(day/month/year)*
Applicant's or agent's file reference	**IMPORTANT NOTIFICATION**
International application No.	International filing date *(day/month/year)*
Applicant	

The applicant is hereby notified that **the international application is declared by this receiving Office to be considered withdrawn** for the reason indicated below:

1. ☐ **Failure to correct certain defects:** An invitation (Form PCT/RO/106) to correct defects in the international application was mailed by this receiving Office on

   _____.

   However: ☐ no corrections, in response to that invitation, have been received within the prescribed time limit.
   ☐ applicant's corrections as submitted do not properly correct the defects noted in that invitation.

2. ☐ **Failure to furnish the required translation of the international application and/or to pay the late furnishing fee:** An invitation (Form PCT/RO/150) to furnish the required translation of the international application and to pay, where applicable, the late furnishing fee was mailed by this receiving Office on

   _____.

   However, within the time limit referred to in that invitation:
   ☐ the required translation was not furnished ☐ the required late furnishing fee was not paid.

3. ☐ **Failure to pay prescribed fees:** An invitation (Form PCT/RO/133) to pay the prescribed fees was mailed by this receiving Office on

   _____.

   However, within the time limit referred to in that invitation:
   ☐ no fees have been paid.
   ☐ the following fees have not been paid or the amounts paid are not sufficient to cover:
   ☐ the transmittal fee ☐ the search fee ☐ the late payment fee
   ☐ the basic fee ☐ at least one designation fee

4. ☐ **Failure to furnish the original of the international application:** An invitation (Form PCT/RO/141) to furnish the original of the international application (transmitted earlier by facsimile machine/teleprinter/etc.) was mailed by this receiving Office on

   _____.

   However, the original was not furnished within the time limit fixed in that invitation.

5. ☐ A copy of this notification has been sent to the International Bureau and to the International Searching Authority.

Name and mailing address of the receiving Office Facsimile No.	Authorized officer Telephone No.

WIPO

VERTRAG ÜBER DIE INTERNATIONALE ZUSAMMENARBEIT AUF DEM GEBIET DES PATENTWESENS

Absender: ANMELDEAMT

An
SIEMENS AKTIENGESELLSCHAFT
Postfach 22 16 34

80506 München

REC'D 24 DEC 2001
PCT
WIPO

MITTEILUNG, DASS DIE INTERNATIONALE ANMELDUNG ALS ZURÜCKGENOMMEN GILT

(Artikel 14 (1) und (3) sowie Regeln 12.3 d), 29.1 oder 92.4 g) i) PCT)

Absendedatum (Tag/Monat/Jahr) 07. 12. 01

Aktenzeichen des Anmelders oder Anwalts 2000 P 15771 WO	WICHTIGE MITTEILUNG
Internationales Aktenzeichen PCT/DE 00/03822	Internationales Anmeldedatum (Tag/Monat/Jahr) 27. Oktober 2000 (27.10.00)
Anmelder SIEMENS AG; u.a.	

Dem Anmelder wird mitgeteilt, daß die internationale Anmeldung vom Anmeldeamt aus dem nachstehenden Grund **für zurückgenommen erklärt wird:**

1. ☐ **Mängel nicht beseitigt:** Eine Aufforderung zur Beseitigung von Mängeln der internationalen Anmeldung (Formblatt PCT/RO/106) ist vom Anmeldeamt abgesandt worden am

   Aber ☐ auf diese Aufforderung hin ist innerhalb der vorgeschriebenen Frist keine Berichtigung eingegangen.
   ☐ die vom Anmelder eingereichten Berichtigungen beseitigen die in der Aufforderung aufgeführten Mängel nicht ordnungsgemäß.

2. ☐ **Erforderliche Übersetzung der internationalen Anmeldung nicht eingereicht und/oder Gebühr für verspätete Einreichung nicht entrichtet:** Eine Aufforderung zur Einreichung der erforderlichen Übersetzung der internationalen Anmeldung und ggf. zur Entrichtung der Gebühr für verspätete einreichung (Formblatt PCT/RO/150) ist vom Anmeldeamt abgesandt worden am

   Aber innerhalb der in dieser Aufforderung genannten Frist
   ☐ ist die erforderliche Übersetzung nicht eingereicht worden.
   ☐ ist die erforderliche Gebühr für verspätete Einreichung nicht entrichtet worden.

3. ☐ **Vorgeschriebene Gebühren nicht gezahlt:** Eine Aufforderung zur Zahlung der vorgeschriebenen Gebühren (Formblatt PCT/RO/133) ist vom Anmeldeamt abgesandt worden am
   06. November 2001.

   Aber innerhalb der in dieser Aufforderung genannten Frist
   ☐ sind keine Gebühren gezahlt worden.
   ☒ sind folgende Gebühren nicht gezahlt worden bzw. reichen die gezahlten Beträge nicht zur Deckung folgender Gebühren aus:
   ☐ Übermittlungsgebühr ☐ Recherchengebühr ☐ Gebühr für verspätete Zahlung
   ☐ Grundgebühr ☒ mindestens eine Bestimmungsgebühr

4. ☐ **Original der internationalen Anmeldung nicht eingereicht:** Eine Aufforderung zur Einreichung des Originals der (bereits mittels Telefax, Fernschreiber usw. übermittelten) internationalen Anmeldung (Formblatt PCT/RO/141) ist vom Anmeldeamt abgesandt worden am

   Aber innerhalb der in dieser Aufforderung gesetzten Frist ist das Original nicht eingereicht worden.

5. ☒ Ein Exemplar dieser Mitteilung ist an das Internationale Büro und die Internationale Recherchenbehörde übermittelt worden.

Name und Postanschrift des Anmeldeamts DEUTSCHES PATENT- UND MARKENAMT 80297 München Telefaxnr. (0 89) 21 95 - 22 21	Bevollmächtigter Bediensteter Stark Telefonnr. (0 89) 21 95- 2423

12 JAN 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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George F. Lehnigk
Sughrue Mion, PLLC
2100 Pennsylvania Avenue, NW
Washington, D.C. 20037-3213

In re Application of	:	
GUNTERSDORFER, et al.	:	SUPPLEMENTAL
Application No.: 10/307,366	:	
Filing Date: 12 December 2002	:	DECISION ON PETITION
Atty. Docket No.: Q72997	:	
For: REMOTE-READABLE IDENTIFICATION TAG	:	UNDER 37 CFR 1.137(b)
AND METHOD FOR OPERATING THE SAME	:	

This is a supplemental decision on applicant's "Petition to Revive Under 37 CFR 1.137(b) and Payment of Fee Under 37 CFR 1.17(m)" filed on 02 December 2002 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 06 November 2000, applicant filed international application PCT/DE00/03882, which designated the United States and claimed priority to a previous application filed 05 November 1999. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 05 May 2002.

On 02 December 2002, applicant filed a petition to revive under 37 CFR 1.137(b) accompanied by a continuation application.

On 02 March 2004, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.137(b). The decision referenced international application PCT/DE00/03822 and stated that applicant's claim of benefit to the earlier application under 35 USC 365(c) was moot. As the decision mailed 02 March 2004 identified the wrong international application the decision is hereby **VACATED**.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where

required).

With regard to Item (1), the proper response was the filing of a continuation application. Applicant filed a continuation application with the petition filed 02 December 2002.

As to Item (2), applicant's original petition references a check in the amount of $1280.00 as payment of the petition fee. The decision mailed stated that as the petition was dismissed as moot, no petition fee was due. An examination of the fee record for this application does not show the petition fee payment. Therefore, as authorized, the $1280.00 petition fee will be charged to Deposit Account No.: 19-4880.

With regard to Item (3), applicant's statement that "the entire delay in entering the national stage or filing a U.S. continuing application from the due date until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

Applicant is entitled to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, since this application (Application No. 10/307,366) and the international application (PCT/DE00/03882) designating the United States were copending on 02 December 2002. A review of the accompanying specification shows that applicant has amended the beginning of the specification of this application by inserting a proper reference to the parent international application in order to obtain benefit of the earlier international application,.

CONCLUSION

For the reasons discussed above, applicant's petition to revive international application PCT/DE00/03882 is **GRANTED**.

The decision mailed 02 March 2004 is hereby **VACATED**.

International application no. PCT/DE00/03882 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the continuing application number 10/307,366.

The present application is being returned to Art Unit 2632 for continued examination.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

(12) NACH DEM VERTRAG ÜBER DIE INTERNATIONALE ZUSAMMENARBEIT AUF DEM GEBIET DES PATENTWESENS (PCT) VERÖFFENTLICHTE INTERNATIONALE ANMELDUNG

(19) Weltorganisation für geistiges Eigentum
Internationales Büro

(43) Internationales Veröffentlichungsdatum
10. Mai 2001 (10.05.2001)

PCT

(10) Internationale Veröffentlichungsnummer
WO 01/33489 A2

(51) Internationale Patentklassifikation[7]: G06K 7/00

(21) Internationales Aktenzeichen: PCT/DE00/03882

(22) Internationales Anmeldedatum:
6. November 2000 (06.11.2000)

(25) Einreichungssprache: Deutsch

(26) Veröffentlichungssprache: Deutsch

(30) Angaben zur Priorität:
199 53 334.2 5. November 1999 (05.11.1999) DE

(71) Anmelder *(für alle Bestimmungsstaaten mit Ausnahme von US)*: **SIEMENS AKTIENGESELLSCHAFT** [DE/DE]; Wittelsbacher Platz 2, 80333 München (DE).

(72) Erfinder; und
(75) Erfinder/Anmelder *(nur für US)*: **GUNTERSDORFER, Max** [DE/DE]; Herzog-Siegmund-Weg 16, 85604 Zorneding (DE). **ZARSCHIZKY, Helmut** [DE/DE]; Grünstadter Platz 7, 81539 München (DE). **ZORN, Gerhard** [DE/DE]; Hohenkirchner Strasse 6 b, 85653 Aying (DE).

(74) Gemeinsamer Vertreter: **SIEMENS AKTIENGESELLSCHAFT**; Postfach 22 16 34, 80506 München (DE).

(81) Bestimmungsstaaten *(national)*: BR, CN, IN, JP, KR, MX, RU, UA, US.

(84) Bestimmungsstaaten *(regional)*: europäisches Patent (AT, BE, CH, CY, DE, DK, ES, FI, FR, GB, GR, IE, IT, LU, MC, NL, PT, SE, TR).

Veröffentlicht:
— *Ohne internationalen Recherchenbericht und erneut zu veröffentlichen nach Erhalt des Berichts.*

Zur Erklärung der Zweibuchstaben-Codes, und der anderen Abkürzungen wird auf die Erklärungen ("Guidance Notes on Codes and Abbreviations") am Anfang jeder regulären Ausgabe der PCT-Gazette verwiesen.

WO 01/33489 A2

(54) Title: REMOTE-READABLE IDENTIFICATION TAG AND METHOD FOR OPERATING THE SAME

(54) Bezeichnung: FERNAUSLESBARE IDENTIFIKATIONSMARKE UND VERFAHREN ZUM BETRIEB EINER SOLCHEN

(57) Abstract: The invention relates to a remote-readable identification tag that is provided with at least two circuits and at least one transmitter/receiver antenna system coupled with the circuits which is characterized in that at least two circuits have a different resonant frequency.

(57) Zusammenfassung: Die fernauslesbare Identifikationsmarke weist mindestens zwei Schwingkreise und mindestens ein mit den Schwingkreisen gekoppeltes Sende-/Empfangs-Antennensystem auf, das dadurch gekennzeichnet ist, daß mindestens zwei Schwingkreise eine unterschiedliche Eigenfrequenz aufweisen.

02 MAR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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George F. Lehnigk
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2100 Pennsylvania Avenue, NW
Washington, D.C. 20037-3213

In re Application of	:	
GUNTERSDORFER, Max, et al.	:	
Application No.: 10/307,366	:	
For: REMOTE-READABLE IDENTIFICATION TAG AND METHOD FOR OPERATING THE SAME	:	DECISION

Applicant's "Petition To Revive Under 37 CFR 1.137(b) and Payment of Fee Under 37 CFR 1.17(m)," filed in the United States Patent and Trademark Office on 02 December 2002, is DISMISSED. Moreover, applicant's claim to benefit of filing date of prior application PCT/DE00/03822 under 35 USC 365(c) is MOOT.

BACKGROUND

On 02 December 2002, applicant filed a transmittal letter for a "continuation application," under 35 U.S.C. 111(a) and 37 CFR 1.53, of international application PCT/DE00/03822, including a claim to the benefit of filing date of this earlier international application under 35 USC 365(c). These application papers were accompanied by, *inter alia*, a translation of the international application, the basic national fee, and an inventor declaration. On 02 December 2002, applicant also filed a petition fee and a petition to revive this international application for failure to timely file the "continuation application" by the thirty month national stage deadline of midnight on Monday, 06 May 2002.

On 06 November 2000, applicant had filed international application number PCT/DE00/03822, claiming priority to an earlier German application, which had been filed on 05 November 1999. The international application was published and transmitted to the United States of America on 05 May 2001. A demand had been timely filed, electing the United States of America, on 26 July 2001. However, applicant's international application was considered generally withdrawn by the German Patent Office, in its capacity as Receiving Office, effective 07 December 2001, for failure to pay at least one designation fee. See the attached copies of the PCT/IB/325 and PCT/RO/117 for international application PCT/DE00/03822.

DISCUSSION

The effect of an international application designating the United States is set forth in 35 USC 363, which states that "[a]n international application designating the United States shall have

the effect, from its international filing date under article 11 of the treaty, of a national application for patent regularly filed in the Patent and Trademark Office." As relevant in this Decision, the consequences of a withdrawn application are set forth in 35 USC 366, which states that "if an international application designating the United States is withdrawn or considered withdrawn, either generally or as to the United States, under the conditions of the treaty and the Regulations, before the applicant has complied with the applicable requirements prescribed by section 371(c) of this part, the designation of the United States shall have no effect after the date of the withdrawal and shall be considered as not having been made, unless a claim for benefit of a prior filing date under section 365(c) of this section was made in a national application . . . filed before the date of such withdrawal." Among other requirements, section 371(c) requires payment of the national fee under section 371(c)(1), provision of a translation of a non-English language international application under section 371(c)(2), and provision of an inventor declaration under section 371(c)(4).

Although designating the United States, international application PCT/DE00/03822 was withdrawn generally on 07 December 2001. Payment of the national fee, provision of a translation of the international application, and provision of the inventor declaration occurred on 02 December 2002. Hence, all of the requirements of 35 USC 371(c) were not satisfied prior to the withdrawal of the international application. Furthermore, applicant's national application, 10/307,666, that claims benefit of prior filing date of PCT/DE00/03822 under section 365(c), was filed after the withdrawal date on 02 December 2002. Therefore, with respect to international application PCT/DE00/03822, by the terms of 35 USC 366, the designation of the United States shall have no effect after 07 December 2001 and shall be considered as not having been made.

Since the designation of the United States in international application PCT/DE00/03822 is considered as not having been made, international application PCT/DE00/03822 does not qualify under 35 USC 363 as a national application for patent regularly filed in the Patent and Trademark Office.

Applicant has filed a petition to revive international application PCT/DE00/03822 on the grounds of unintentional abandonment of this application under 37 CFR 1.137(b) for failure to file applicant's "continuation application" by the thirty month national stage deadline of midnight, 06 May 2002. However, with respect to the United States of America, this application does not qualify as a national application for patent and hence could not become abandoned. Such a non-existent application cannot be revived by meeting the requirements of 37 CFR 1.137(b). The petition is therefore dismissed.

Applicant's claim to benefit of filing date of prior application PCT/DE00/03822 is governed by 35 USC 365(c), which points to the requirements and conditions of 35 USC 120 as determining entitlement to benefit of prior filing date. According to 35 USC 120, "[a]n application for patent for an invention disclosed . . . in an application previously filed in the United States, or as provided by section 363 of this title, which is filed by an inventor or inventors named in the previously filed application shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before patenting or abandonment of or termination of

proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application." For applicant to obtain the benefit of filing date of a prior application, there had to exist a prior application. For the reasons already discussed above, international application PCT/DE00/03822 cannot qualify under 35 USC 363 as a prior application. The benefit claim is therefore moot. The description of this application as a "continuation application" of PCT/DE00/03822 is improper and should be deleted.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is DISMISSED. No fee is due.

Applicant's claim to benefit of filing date of prior application under 35 USC 365(c) is MOOT. Applicant's application is not a "continuation application" of international application PCT/DE00/03822.

This application is being forwarded to the Office of Initial Patent Examination for continued processing.

Michael La Villa
Detailee
Office of PCT Administration
Telephone (703) 308-6162
Facsimile (703) 308-6459

Leonard Smith
PCT Legal Examiner
Office of PCT Administration
Telephone: (703) 308-6461
Facsimile: (703) 308-6459

Enclosure:

PCT/IB/325 for PCT/DE00/03822
PCT/RO/117 for PCT/DE00/03822, dated 07 December 2001
PCT/RO/117 blank form in English

File copy

PATENT COOPERATION TREATY

10

From the INTERNATIONAL BUREAU

To:

AU,CA,EP,KR,NO,US

in its capacity as designated Office

PCT

NOTIFICATION THAT INTERNATIONAL APPLICATION CONSIDERED TO BE WITHDRAWN

(PCT Article 14(1), (3) or (4) and Rule 29.1)

Date of mailing (day/month/year) 07 December 2001 (07.12.01)	**IMPORTANT NOTIFICATION**
International application No. PCT/DE00/03822	**International filing date** (day/month/year) 27 October 2000 (27.10.00)
Applicant SIEMENS AKTIENGESELLSCHAFT et al	

1. The International Bureau hereby gives notice that the receiving Office has, on the date indicated below, notified to the applicant that the international application is to be considered withdrawn:

   07 December 2001 (07.12.01)

2. [X] A copy of this notification has been sent to the International Preliminary Examining Authority.

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No.: (41-22) 740.14.35	Authorized officer Dorothée MÜLHAUSEN Telephone No.: (41-22) 338.83.38

PATENT COOPERATION TREATY

From the RECEIVING OFFICE

To:

PCT

NOTIFICATION THAT INTERNATIONAL APPLICATION CONSIDERED TO BE WITHDRAWN

(PCT Article 14(1) or (3) and Rule 12.3(d), 29.1 or 92.4(g)(i))

	Date of mailing *(day/month/year)*
Applicant's or agent's file reference	**IMPORTANT NOTIFICATION**
International application No.	International filing date *(day/month/year)*
Applicant	

The applicant is hereby notified that **the international application is declared by this receiving Office to be considered withdrawn** for the reason indicated below:

1. ☐ **Failure to correct certain defects:** An invitation (Form PCT/RO/106) to correct defects in the international application was mailed by this receiving Office on _____.

   However: ☐ no corrections, in response to that invitation, have been received within the prescribed time limit.
   ☐ applicant's corrections as submitted do not properly correct the defects noted in that invitation.

2. ☐ **Failure to furnish the required translation of the international application and/or to pay the late furnishing fee:** An invitation (Form PCT/RO/150) to furnish the required translation of the international application and to pay, where applicable, the late furnishing fee was mailed by this receiving Office on _____.

   However, within the time limit referred to in that invitation:
   ☐ the required translation was not furnished ☐ the required late furnishing fee was not paid.

3. ☐ **Failure to pay prescribed fees:** An invitation (Form PCT/RO/133) to pay the prescribed fees was mailed by this receiving Office on _____.

   However, within the time limit referred to in that invitation:
   ☐ no fees have been paid.
   ☐ the following fees have not been paid or the amounts paid are not sufficient to cover:
   ☐ the transmittal fee ☐ the search fee ☐ the late payment fee
   ☐ the basic fee ☐ at least one designation fee

4. ☐ **Failure to furnish the original of the international application:** An invitation (Form PCT/RO/141) to furnish the original of the international application (transmitted earlier by facsimile machine/teleprinter/etc.) was mailed by this receiving Office on _____.

   However, the original was not furnished within the time limit fixed in that invitation.

5. ☐ A copy of this notification has been sent to the International Bureau and to the International Searching Authority.

Name and mailing address of the receiving Office Facsimile No.	Authorized officer Telephone No.

WIPO

VERTRAG ÜBER DIE INTERNATIONALE ZUSAMMENARBEIT AUF DEM GEBIET DES PATENTWESENS

Absender: ANMELDEAMT

An
SIEMENS AKTIENGESELLSCHAFT
Postfach 22 16 34

80506 München

REC'D 24 DEC 2001
PCT
WIPO

MITTEILUNG, DASS DIE INTERNATIONALE ANMELDUNG ALS ZURÜCKGENOMMEN GILT

(Artikel 14 (1) und (3) sowie Regeln 12.3 d), 29.1 oder 92.4 g) i) PCT)

	Absendedatum *(Tag/Monat/Jahr)* 07. 12. 01
Aktenzeichen des Anmelders oder Anwalts 2000 P 15771 WO	**WICHTIGE MITTEILUNG**
Internationales Aktenzeichen PCT/DE 00/03822	Internationales Anmeldedatum *(Tag/Monat/Jahr)* 27. Oktober 2000 (27.10.00)
Anmelder SIEMENS AG; u.a.	

Dem Anmelder wird mitgeteilt, daß die internationale Anmeldung vom Anmeldeamt aus dem nachstehenden Grund **für zurückgenommen erklärt wird:**

1. ☐ **Mängel nicht beseitigt:** Eine Aufforderung zur Beseitigung von Mängeln der internationalen Anmeldung (Formblatt PCT/RO/106) ist vom Anmeldeamt abgesandt worden am

   Aber ☐ auf diese Aufforderung hin ist innerhalb der vorgeschriebenen Frist keine Berichtigung eingegangen.
   ☐ die vom Anmelder eingereichten Berichtigungen beseitigen die in der Aufforderung aufgeführten Mängel nicht ordnungsgemäß.

2. ☐ **Erforderliche Übersetzung der internationalen Anmeldung nicht eingereicht und/oder Gebühr für verspätete Einreichung nicht entrichtet:** Eine Aufforderung zur Einreichung der erforderlichen Übersetzung der internationalen Anmeldung und ggf. zur Entrichtung der Gebühr für verspätete einreichung (Formblatt PCT/RO/150) ist vom Anmeldeamt abgesandt worden am

   Aber innerhalb der in dieser Aufforderung genannten Frist
   ☐ ist die erforderliche Übersetzung nicht eingereicht worden.
   ☐ ist die erforderliche Gebühr für verspätete Einreichung nicht entrichtet worden.

3. ☐ **Vorgeschriebene Gebühren nicht gezahlt:** Eine Aufforderung zur Zahlung der vorgeschriebenen Gebühren (Formblatt PCT/RO/133) ist vom Anmeldeamt abgesandt worden am
   06. November 2001.

   Aber innerhalb der in dieser Aufforderung genannten Frist
   ☐ sind keine Gebühren gezahlt worden.
   ☒ sind folgende Gebühren nicht gezahlt worden bzw. reichen die gezahlten Beträge nicht zur Deckung folgender Gebühren aus:
   ☐ Übermittlungsgebühr ☐ Recherchengebühr ☐ Gebühr für verspätete Zahlung
   ☐ Grundgebühr ☒ mindestens eine Bestimmungsgebühr

4. ☐ **Original der internationalen Anmeldung nicht eingereicht:** Eine Aufforderung zur Einreichung des Originals der (bereits mittels Telefax, Fernschreiber usw. übermittelten) internationalen Anmeldung (Formblatt PCT/RO/141) ist vom Anmeldeamt abgesandt worden am

   Aber innerhalb der in dieser Aufforderung gesetzten Frist ist das Original nicht eingereicht worden.

5. ☒ Ein Exemplar dieser Mitteilung ist an das Internationale Büro und die Internationale Recherchenbehörde übermittelt worden.

Name und Postanschrift des Anmeldeamts DEUTSCHES PATENT- UND MARKENAMT 80297 München Telefaxnr. (0 89) 21 95 - 22 21	Bevollmächtigter Bediensteter Stark Telefonnr. (0 89) 21 95- 2423

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P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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JAN 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Luigi LIRA	:	
Application No. 10/307,417	:	DECISION ON PETITION
Filed: December 2, 2002	:	TO WITHDRAW
Attorney Docket No. 06975-247001/Browser 07	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 14, 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).

Babak Akhlaghi has been withdrawn as attorney of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Wantanabe, et al.	:	
Application No. 10/307,426	:	DECISION ON PETITION
Filed: December 2, 2002	:	
Docket No.: 500.42292X00	:	

This is a decision on the petition under 37 CFR 1.181, filed February 12, 2007, to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit a properly reply to the non-final Office action mailed May 18, 2006. The non-final Office action set a three month shortened statutory period of time for reply. This decision precedes Notice of Abandonment.

Petitioners assert non-receipt of the non-final Office action.

In the absence of any irregularity in the mailing of an Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 711.03(c). 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.

The arguments and supporting documentation presented have been carefully considered and support the conclusion that the Office communication was not received.

In view thereof the Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to the Technology Center 2100 for re-mailing of the final Office action. The time period for reply will be set in the re-mailed Office action.

Telephone inquiries concerning this matter may be directed to the undersigned at 571-272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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DIW May-05

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, NW
WASHINGTON DC 20037-3213

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MAY 0 4 2005
OFFICE OF PETITIONS

In re Patent No. 6,753,753	:DECISION GRANTING PETITION
Issued: 22 June, 2004	:UNDER 37 CFR 1.78(a)(3) AND
Application No. 10/307,442	:REQUEST FOR CERTIFICATE
Filed: 2 December, 2002	:OF CORRECTION
Atty Docket No. Q72965	:

This is a decision on the "Petition Under 37 CFR 1.78(a) to Accept an Unintentionally Delayed Claim Under 35 U.S.C. § 120," filed on 10 February, 2005, which is being treated as a petition under 37 CFR 1.78(a)(3) seeking to add a claim for priority on the front page of the Letters Patent by way of a Certificate of Correction to prior-filed nonprovisional Application No. 09/781,415, filed on 13 February, 2001.

The petition is **granted**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed on 2 December, 2002. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent.[1]

[1] See MPEP 1481, Rev. 2, May 2004, page 1400-85, second column.

As the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

This patented file is being forwarded to the Certificates of Correction Branch for processing the request for a Certificate of Correction.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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Paper No.

Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington, DC 20005-3315

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OFFICE OF PETITIONS

In re Patent No. 6,790,898 Lee et al. Issue Date: September 14, 2004 Application No. 10/307,472 Filed: December 2, 2002 Attorney Docket No. 05823.0231	:	DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT and NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed September 27, 2004. This request is properly considered pursuant to 37 CFR 1.705(d). Patentees request that the patent term adjustment indicated in the patent be corrected from ninety-six (96) days to one hundred twenty-six (126) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one hundred twenty-six **(126)** days.

On September 14, 2004, the above-identified application matured into U.S. Patent No. 6,790,898. The instant request for reconsideration 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 96 days. A period of adjustment of 126 days for Office delay was reduced by 30 days for the filing of drawings after the mailing of the notice of allowance. Patentees dispute this reduction on the basis that no drawings were submitted in this case after the notice of allowance. In fact, patentees state no drawings are in this case.

Patentees' arguments are well-taken. No drawings were required and no drawings were filed before or after the mailing of the notice of allowance. Nor was any other paper warranting a reduction of the PTA filed. The Office should not have entered a period of reduction of 30 days.

In view thereof, the patent term adjustment indicated on the patent should have been one hundred twenty-six **(126)** days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. See 35 U.S.C. § 254 and 37 CFR § 1.322. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one hundred twenty-six (126) days.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Karin Ferriter
for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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September 1, 2005

Donald R. Studebaker
NIXON PEABODY LLP
401 9th Street, N. W.
Suite 900
Washington, DC 20004-2128

Patent No.: **6908006 B2**
Inventor(s): **Teppei Sakaguchi, et al.**
Issued: June 21, 2005
Title: **HIGH-PRESSURE TANK AND METHOD FOR FABRICATING THE SAME**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(703) 872-9306 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Virginia Tolbert
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext 113** or (703) 308-8309

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

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DTW May-06

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

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OFFICE OF PETITIONS

In re Patent No. 6,908,006	:	
Issued: 21 June, 2005	:	
Application No. 10/307,495	:	ON PETITION
Filed: 2 December, 2002	:	
Atty Dckt No. 740819-935	:	

This is a decision on the petition filed on 19 October, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

A processing fee of $130.00, in addition to the certificate of correction fee of $100.00, is due. The balance will be assessed to counsel's deposit account, as authorized on the fee transmittal sheet filed with the present petition.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] See Official Gazette of 22 June, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

HARVEST TEC, INC.
P.O. BOX 63
HUDSON, WI 54016

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JAN 21 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Kurt Stehr et al	:
Application No. 10/307,553	:
Filed: December 2, 2002	:
Attorney Docket No.	:

This is a decision on the petition under 37 CFR 1.137(b), filed December 6, 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 January 30, 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 31, 2003.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

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

cc:

Joel D. Skinner, Jr.
Skinner and Associates
212 Commercial Street
Hudson, WI 54016

SAK/MHO

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 7

JC715 U.S. PTO
10/307555
12/02/02

BANNER & WITCOFF, LTD.
1001 G STREET, N.W.
WASHINGTON, DC 20001

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DEC 06 2001
BANNER & WITCOFF LTD.

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DEC 03 2001
OFFICE OF PETITIONS

In re Application of	:
Mark J. Cooper et al.	:
Application No. 09/867,693	: DECISION GRANTING
Filed: May 31, 2001	:STATUS UNDER 37 CFR 1.47(a)
For: LYOPHILIZABLE AND ENHANCED	:
COMPACTED NUCLEIC ACIDS	:

This is in response to the petition under 37 CFR 1.47(a), filed November 13, 2001.

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 Irvin Dingle at (703) 306-5684.

This application is being forwarded to Technology Center 1600.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

63659.00009
DOCKETED
DEC 06 2001
NOTED

BEST AVAILABLE COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 8

MAUREEN COSTELLO
102 NORTH MANSFIELD AVENUE
MARGATE CITY, NJ 08402

COPY MAILED

DEC 0 3 2001

OFFICE OF PETITIONS

In re Application of
Mark J. Cooper; Murali K. Pasumarthy; Tomasz H. Kowalczyk; Maureen Costello
Application No. 09/867,693
Filed: May 31, 2001
For: LYOPHILIZABLE AND ENHANCED COMPACTED NUCLEIC ACIDS

Dear Dr. Costello:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the Irvin Dingle at (703) 306-5684. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Banner & Witcoff, Ltd.
1001 G Street, NW
Washington, DC 20001

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	)
	) Group Art Unit: Not Yet Assigned
Mark Cooper et al.	)
	) Examiner: Not Yet Assigned
Serial No. 09/867,693	)
	)
Filing Date: May 31, 2001	) Docket No. 003659.00009

For: **LYOPHILIZABLE AND ENHANCED COMPACTED NUCLEIC ACIDS**

PETITION UNDER RULE 47(a)

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Applicants hereby petition the Assistant Commissioner to accept the following statement of facts in lieu of a signed declaration of inventor Maureen Costello. Dr. Maureen Costello refuses to sign the declaration for the above-captioned application.

The petition fee of $130.00 as required by 37 C.F.R. § 1.17(h) is enclosed herewith. However, if the Patent Office determines that additional fees are due, the Assistant Commissioner is hereby authorized and directed to debit our Deposit Account No. 19-0733.

Patent Application, Joint Declaration for Patent Application and Assignment papers for the above-mentioned application. I then asked her if she would sign the papers. Dr. Costello informed me that she "wants no part of it" and will "not sign it." She also informed me that she had previously informed Robert Moen, President and CEO of Copernicus Therapeutics, Inc., and Mark Cooper, Senior Vice President, Science and Medical Affairs of Copernicus Therapeutics, Inc., that she will not sign the papers. A copy of my contemporaneous notes of the telephone conversation with Dr. Costello is attached. See Exhibit 8.

POINT TO BE REVIEWED

The point to be reviewed is whether the above-mentioned application should be accepted as complete even though one of the inventors, Maureen Costello, refuses to sign the Joint Declaration for Patent Application.

ACTION REQUESTED

Applicants request that this petition under 37 CFR 1.47 be accepted in lieu of Dr. Costello's signed inventor's declaration and that the application be considered as fulfilling the requirements for filing a nonprovisional application.

STATEMENT OF LAST KNOWN ADDRESS

The last known address for Dr. Costello is:

102 North Mansfield Avenue
Margate City, NJ 08402

STATEMENT OF FACTS

1. Ms. Jan Candelaria, manager, administration of Copernicus Therapeutics Inc., sent a copy of the Joint Declaration for Patent Application and Assignment to Dr. Costello by Federal Express on October 8, 2001. The papers sent by Federal Express could not be delivered to Dr. Costello. A copy of the memorandum sent with the Joint Declaration and Assignment to Dr. Costello indicates that the Joint Declaration for Patent Application and Assignment papers were enclosed for Dr. Costello's signature. See Exhibit 1. A Federal Express airbill was affixed to the Federal Express package sent to Dr. Costello on October 8, 2001. See Exhibit 2. The tracking number is indicated as 828748717952 on the top of the airbill. The tracking record of Federal Express package 828748717952 indicates that on October 9, 2001 at 09:56 the customer was not available or business was closed. See Exhibit 3. The package was returned to Ms. Candelaria because it could not be delivered to Dr. Costello. See Exhibit 4.

2. Ms. Candelaria sent a follow-up copy of the Joint Declaration for Patent Application and Assignment to Dr. Costello with a copy of the application on October 12, 2001 in a Federal Express package. See Exhibit 5. Ms. Candelaria included a memorandum in the Federal Express package. See Exhibit 6. The memorandum states that the Federal Express package contains a copy of the application with the signature pages. The Federal Express detailed tracking results indicate that the Joint Declaration for Patent Application, Assignment, and Patent Application papers were delivered on October 13, 2001 at 11:12. See Exhibit 7.

3. Dr. Costello did not return the executed documents to Ms. Candelaria.

4. I, Michelle Holmes-Son, spoke with Dr. Costello on November 12, 2001. I told Dr. Costello that I had a Federal Express tracking record that indicated that she had received the

Patent Application, Joint Declaration for Patent Application and Assignment papers for the above-mentioned application. I then asked her if she would sign the papers. Dr. Costello informed me that she "wants no part of it" and will "not sign it." She also informed me that she had previously informed Robert Moen, President and CEO of Copernicus Therapeutics, Inc., and Mark Cooper, Senior Vice President, Science and Medical Affairs of Copernicus Therapeutics, Inc., that she will not sign the papers. A copy of my contemporaneous notes of the telephone conversation with Dr. Costello is attached. See Exhibit 8.

POINT TO BE REVIEWED

The point to be reviewed is whether the above-mentioned application should be accepted as complete even though one of the inventors, Maureen Costello, refuses to sign the Joint Declaration for Patent Application.

ACTION REQUESTED

Applicants request that this petition under 37 CFR 1.47 be accepted in lieu of Dr. Costello's signed inventor's declaration and that the application be considered as fulfilling the requirements for filing a nonprovisional application.

STATEMENT OF LAST KNOWN ADDRESS

The last known address for Dr. Costello is:

102 North Mansfield Avenue
Margate City, NJ 08402

Respectfully submitted,

Date: November 13, 2001

By: Michelle L. Holmes-Son
Registration No. 47,660

Banner & Witcoff, Ltd.
1001 G Street, NW
Washington, DC 20001
202-508-9100

List of Exhibits

Exhibit 1. October 8, 2001 memorandum from Jan Candelaria to Dr. Maureen Costello.
Exhibit 2. Federal Express airbill for October 8, 2001 package.
Exhibit 3. Tracking record of October 8, 2001 Federal Express package.
Exhibit 4. Federal Express airbill of undelivered October 8, 2001 package.
Exhibit 5. Federal Express airbill for October 12, 2001 package.
Exhibit 6. October 12, 2001 memorandum from Jan Candelaria to Dr. Maureen Costello.
Exhibit 7. Tracking record of October 12, 2001 Federal Express package.
Exhibit 8. Notes of November 12, 2001 telephone conversation between Dr. Maureen Costello and Michelle Holmes-Son.

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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BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

COPY MAILED

JUN 01 2007

OFFICE OF PETITIONS

In re Application of
Cooper et al.
Application No. 10/307,555
Filed: December 2, 2002

Attorney Docket No. 003659.00027
Title of Invention: Lyophilizable and Enhanced Compacted Nucleic Acids

ON PETITION

This is a decision on the petition under 37 CFR §1.181 filed May 3, 2007 to withdraw the holding of abandonment.

The petition filed under 37 CFR 1.181 is **Granted**.

This application was held abandoned November 9, 2006 for failure to timely reply to the non-final Office Action mailed on August 8, 2006. The non-final Office Action set a three (3) month extendable time period for reply. A Notice of Abandonment was mailed April 19, 2007.

Petitioner contends a reply to the non-final Office Action was received in the Office on November 8, 2006. In support of petitioner's contention, petitioner has submitted a postcard receipt date stamped November 8, 2006.

The response submitted November 8, 2006 has been located. Based on the facts stated in the instant petition and the corroborative evidence provided, it is concluded that the holding of abandonment was improperly imposed.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

This application is being forwarded to the Art Unit 1633 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petition 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

KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON DC 20005

COPY MAILED

MAR 14 2008

OFFICE OF PETITIONS

In re Patent No. 7,284,116 :
Issue Date: October 16, 2007 : DECISION ON PETITION
Application No. 10/307,557 : UNDER 37 CFR 1.78(a)(3)
Filed: December 2, 2002 :
Attorney Docket No. 2207/760,802 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 19, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional Application No. 09/475,646, filed December 30, 1999, by way of a certificate of correction filed concurrently herewith.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Application no. 10/307,557 which was filed after November 29, 2000, matured into Patent No. 7,284,116 on October 16, 2007. The claim for the benefit of priority to a prior-filed nonprovisional application was submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in a certificate of correction, 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, the petition cannot be granted because the . While the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is not grantable because the Certificate of Correction incorrectly identifies the patent no. for the instant application as well as the patent no. of the application for which priority is being claimed.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and a Certificate of Correction to correct the above matters is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
40l Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON DC 20005

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MAR 27 2008

OFFICE OF PETITIONS

In re Patent No. 7,284,116	:
Issue Date: October 16, 2007	: DECISION ON PETITION
Application No. 10/307,557	: UNDER 37 CFR 1.78(a)(3)
Filed: December 2, 2002	:
Attorney Docket No. 2207/760,802	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 19, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional Application No. 09/475,646, filed December 30, 1999, by way of a certificate of correction filed concurrently herewith.

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.

Application no. 10/307,557 which was filed after November 29, 2000, matured into Patent No. 7,284,116 on October 16, 2007. The claim for the benefit of priority to a prior-filed nonprovisional application was submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in a certificate of correction, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

This application is being forwarded to the Certificates of Corrections branch for an issuance of a certificate of correction noting the priority claim to prior filed application 09/475,646 filed December 30, 1999, which matured into Patent No. 6,516,405 on February 4, 2003.

Any questions concerning this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. Any questions regarding the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,284,116 B2 Page 1 of 1
DATED : 16 October 2007
INVENTOR(S) : Stephan Jourdan et al.

It is certified that errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

--Related Application Data

This application is a continuation of application no. 09/475,646, filed on December 30, 1999, now U.S. Patent No. 6,516,405. --

MAILING ADDRESS OF SENDER:

B. Delano Jordan
KENYON & KENYON LLP
1500 K Street, N.W., Suite 700
Washington, DC 20005

Patent No.: 7,284,116 B2

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
10/307,557	12/02/2002	2183	1398	2207/760802	28	4

CONFIRMATION NO. 9362

CORRECTED FILING RECEIPT

23838
KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

OC000000028915090

Date Mailed: 03/18/2008

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)

Stephan J. Jourdan, Portland, OR;
Freddy Gabbay, Tel-Aviv, ISRAEL;
Ronny Ronen, Haifa, ISRAEL;
Adi Yoaz, Austin, TX;

Power of Attorney:

John Altmiller--25951
James Jacobson Jr--31626
Thomas Reynolds--32488
Shawn O'Dowd--34687
Raymond Werner--34752
Richard Calderwood--35468
Joseph Bond--36458
Naomi Obinata--39320
Thomas George--45740

Domestic Priority data as claimed by applicant

This application is a CON of 09/475,646 12/30/1999 PAT 6,516,405

Foreign Applications

If Required, Foreign Filing License Granted: 01/17/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/307,557**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD AND SYSTEM FOR SAFE DATA DEPENDENCY COLLAPSING BASED ON CONTROL-FLOW SPECULATION

Preliminary Class

712

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DW 03-04

Paper No. 7

COHEN, PONTANI, LIEBERMAN & PAVANE
551 FIFTH AVENUE
SUITE 1210
NEW YORK NY 10176

COPY MAILED

MAR 2 2 2004

OFFICE OF PETITIONS

In re Application of Lin et al. Application No. 10/307,562 Filed: 25 November, 2002 Attorney Docket No. 4910-15	DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10(d), filed on 14 October, 2003, requesting that the above-identified application be accorded a filing date of 25 November, 2002, rather than the presently accorded filing date of 2 December, 2002.

Petitioner alleges that the application was deposited in Express Mail service on 25 November, 2002. Although a copy of the USPS Express Mail Customer Label has not been provided, petitioners have supplied declarations by (a) Ernest Williams, an employee in counsel's mailroom, who states that he deposited counsel's Express Mail with the USPS at Grand Central Station, NY on 25 November, 2002, prior to the closing time of the postal facility, (b) Jennifer Colwell, counsel's legal secretary, who states that she prepared an application memorandum prior to the filing of the application, and (c) Marva McMeo-Wiggins, counsel's docketing clerk, who states that she reviewed and dated the application memorandum on 26 November, 2002, the business day after the application was filed, and also created a docket entry. Petitioners have also presented a copy of the application memorandum initialed and dated 11/26/02 by Ms. McMeo-Wiggins, as well as a copy of the docket entry. As the application memorandum was initialed and dated after deposit and within one business day of the deposit of the application, it constitutes evidence that came into being after deposit and within one business day of deposit. Additionally, the docket entry was prepared after and within one business day of deposit.

In view of the evidence present in the file, it is concluded that the "date-in" shown on the Express Mail label is incorrect and that the correct date of deposit in Express Mail service is 25 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 **25 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 10

JOSEPH S. HEINO
DAVIS & KUELTHAU, S.C.
111 E. KILBOURN
SUITE 1400
MILWAUKEE, WI 53202-6613

COPY MAILED

JUL 1 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Forest A. Hatcher	:	
Application No. 10/307,564	:	ON PETITION
Filed: December 2, 2002	:	
Attorney Docket No. 32110.21595	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 22, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 11, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 12, 2003.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

The file is being forwarded to Technology Center AU 3712.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WWW.USPTO.GOV

Paper No. None

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MAR 1 6 2006

OFFICE OF PETITIONS

Manny O Laveria
2256 Hamlet Drive
Melbourne FL 32934

In re Application of	:	
Manny Oscar Laveria	:	
Application No. 10/307,569	:	DECISION ON PETITION
Filed: December 2, 2002	:	UNDER 37 C.F.R. §1.181
Title: FLUID WAVE ELECTRIC	:	
GENERATOR SYSTEM	:	

This is a decision on the petition filed on January 23, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed March 2, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on June 3, 2005. A notice of abandonment was mailed on December 29, 2005.

With the present petition, Petitioner has asserted that a response to this communication was submitted "on April 2005[1]." Petitioner has submitted a copy of this response, but the response does not appear to contain a certificate of mailing.

However, the electronic file has been reviewed, and the same contains the above-mentioned response. It is clear that this response was received on April 12, 2005.

Petitioner has requested that the holding of abandonment in the above-identified application be withdrawn. It is clear that a response was timely submitted. Considering the facts and circumstances of the delay at issue, as set forth on petition,

1 Petition, page 1.

it is concluded that petitioner has met his burden of establishing that a submission was timely submitted.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

Technology Center 3700 will be notified of this decision.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

OIPE IAP87
AUG 1 6 2006
PATENT & 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. None

COPY MAILED
MAR 1 6 2006
OFFICE OF PETITIONS

Manny O Laveria
2256 Hamlet Drive
Melbourne FL 32934

In re Application of	:	
Manny Oscar Laveria	:	
Application No. 10/307,569	:	DECISION ON PETITION
Filed: December 2, 2002	:	UNDER 37 C.F.R. §1.181
Title: FLUID WAVE ELECTRIC	:	
GENERATOR SYSTEM	:	

This is a decision on the petition filed on January 23, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed March 2, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on June 3, 2005. A notice of abandonment was mailed on December 29, 2005.

With the present petition, Petitioner has asserted that a response to this communication was submitted "on April 2005[1]." Petitioner has submitted a copy of this response, but the response does not appear to contain a certificate of mailing.

However, the electronic file has been reviewed, and the same contains the above-mentioned response. It is clear that this response was received on April 12, 2005.

Petitioner has requested that the holding of abandonment in the above-identified application be withdrawn. It is clear that a response was timely submitted. Considering the facts and circumstances of the delay at issue, as set forth on petition,

1 Petition, page 1.

it is concluded that petitioner has met his burden of establishing that a submission was timely submitted.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

Technology Center 3700 will be notified of this decision.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 2/20/07

TO SPE OF : ART UNIT 1655

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/307600 Patent No.: 7078163 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: [illegible] - ok
C. R. Tate 12/11/07

Terry a McKelvey
TERRY MCKELVEY, PH.D.
SUPERVISORY PATENT EXAMINER
SPE

1655
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

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NOV 02 2006
OFFICE OF PETITIONS

PFIZER INC
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK, NY 10017-5612

In re Application of :
Brown : DECISION ON PETITION
Application No. 10/307,603 :
Filed: December 2, 2002 :
Atty. Dkt. No.: PC23005A :

This is a decision on the petition under 37 CFR 1.137(b), filed September 14, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned March 15, 2006 for failure to timely file a proper reply to the final Office action mailed December 14, 2005. Notice of Abandonment was filed August 31, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4)any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the final Office action is accepted as having been unintentionally delayed.

The Notice of Appeal has been entered and made of record. 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.

This application will be forwarded to Technology Center 1600 for further processing.

Application No. 10/307,603

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

PFIZER INC
Steve T. Zelson
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK, NY 10017-5612

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JAN 14 2009

OFFICE OF PETITIONS

In re Application of Brown :
Application No. 10/307,603 :
Filing Date: December 2, 2002 :
Attorney Docket No. PC23005A :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed August 19, 2008, to revive the above-identified application.

The petition is **granted**.

A petition under 37 CFR 1.137(b) was previously filed on September 14, 2006. A decision granting the petition was mailed November 2, 2006. The decision stated, with prior emphasis in bold removed,

> The Notice of Appeal has been entered and made of record. 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.

As an appeal brief (and appeal brief fee) was not filed within two (2) months of the November 2, 2006 decision, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed. See 37 CFR 41.37(b). As no claim was allowed, the-above-identified application became abandoned on January 3, 2007. See MPEP 1215.04. A Notice of Abandonment was mailed May 17, 2007.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) the reply required to the outstanding Office action or notice, unless previously filed,
(2) the petition fee,
(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.

As for item (1), petitioner has submitted a Request for Continued Examination and the fee for the RCE has been charged to deposit account no. 19-1013.

As for item (2), petitioner has submitted the required petition fee.

As for item (3), petitioner has stated, "The entire delay in filing the required reply from the due date until the filing of this petition was unintentional." The Office notes the petition is signed by Attorney Peter Bernstein who is not an attorney or agent of record. Therefore, it appears Attorney Bernstein may not have been in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Attorney Bernstein that the entire delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] 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 a portion of the delay 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.

As for item (4), a terminal disclaimer is not required.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. Although a courtesy copy of this decision is being mailed to the address given on the petition, the Office will mail all future correspondence solely to the address of record.

Technology Center Art Unit 1624 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

cc: Scully, Scott, Murphy & Presser, P.C.
Suite 300
400 Garden City Plaza
Garden City, NY 11530

---

[1] 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JoAnne M. Denison
Suite 1608
212 W. Washington Blvd
Chicago IL 60606-3487

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MAR 30 2005

OFFICE OF PETITIONS

In re Application of
Lee R. Moe
Application No. 10/307,605
Filed: December 2, 2002
Title: Board Game With Time Variables

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 17, 2005, to revive the above-identified application.

This application became abandoned for failure to timely file a proper response to the final Office action mailed May 27, 2004, which set a three-month shortened statutory period to respond. The application became abandoned on August 28, 2004. A Notice of Abandonment was mailed on January 25, 2005.

The petition is **DISMISSED**.

The petition under 37 CFR 1.137(b) will not be treated on its merits, but rather will remain in the file until the United States Patent and Trademark Office (Office) receives a renewed petition under 37 CFR 1.137(b), a reply,[1] as well as the payment of the balance of the petition fee in the amount of $125.00.[2]

---

[1] The Office did not receive any reply to the final Office action with the present petition.

[2] The Office finance records indicate that applicant submitted an insufficient fee in the amount of $625.00 by credit card. Additionally, applicant did not authorize the Office to charge a Deposit Account for any necessary fees. The current fee for a petition to revive under 37 CFR 1.137(b) is $750.00. Accordingly, applicant owes the difference of $125.00.

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).

Accordingly, the Office lacks the discretion to, and will not, address the merits of any petition seeking revival of an abandoned application in the absence of the payment of the petition fee required by statute. In this regard, this application is properly considered abandoned by operation of 35 USC § 133 for failure to prosecute.

The time period to submit a request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Senior Petitions Attorney Christina Tartera Donnell:**

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building

401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JoAnne M. Denison
Suite 2004
212 W. Washington Blvd
Chicago IL 60606-3487

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JUL 1 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Lee R. Moe	:	**CORRECTED**
Application No. 10/307,605	:	DECISION ON PETITION
Filed: December 2, 2002	:	
Title: Board Game With Time	:	
Variables	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 17, 2005, to revive the above-identified application.[1]

This application became abandoned for failure to timely file a proper response to the final Office action mailed May 27, 2004, which set a three-month shortened statutory period to respond. The application became abandoned on August 28, 2004. A Notice of Abandonment was mailed on January 25, 2005.

The petition is **DISMISSED**.

The petition under 37 CFR 1.137(b) will <u>not</u> be treated on its merits, but rather will remain in the file until the United States Patent

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[1] Unfortunately, the Office did not enter the request to change of the correspondence address until after the previous decision of March 30, 2005, was mailed. Accordingly, the Office is mailing a corrected decision to the new correspondence address.

and Trademark Office (Office) receives a renewed petition under 37 CFR 1.137(b), a reply,[2] as well as the payment of the balance of the petition fee in the amount of $125.00.[3]

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).

Accordingly, the Office lacks the discretion to, and will not, address the merits of any petition seeking revival of an abandoned application in the absence of the payment of the petition fee required by statute. In this regard, this application is properly considered abandoned by operation of 35 USC § 133 for failure to prosecute.

The time period to submit a request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

---

[2] The Office did not receive any reply to the final Office action with the present petition.

[3] The Office finance records indicate that applicant submitted an insufficient fee in the amount of $625.00 by credit card. Additionally, applicant did not authorize the Office to charge a Deposit Account for any necessary fees. The current fee for a petition to revive under 37 CFR 1.137(b) is $750.00. Accordingly, applicant owes the difference of $125.00.

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

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
www.uspto.gov

JoAnne M. Denison
Suite 2004
212 W. Washington Blvd
Chicago IL 60606-3487

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AUG 0 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Lee R. Moe	:	DECISION ON PETITION
Application No. 10/307,605	:	
Filed: December 2, 2002	:	
Title: Board Game With Time	:	
Variables	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 1, 2005, to revive the above-identified application.

This application became abandoned for failure to timely file a proper response to the final Office action mailed May 27, 2004, which set a three-month shortened statutory period to respond. The application became abandoned on August 28, 2004. A Notice of Abandonment was mailed on January 25, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an RCE and an amendment, as well as made the proper statement of unintentional delay.

The petition is **granted**.

This matter is being referred to Technology Center Art Unit 3711.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Feb-06

SCOTT T. GRIGGS
1717 MAIN STREET
SUITE 3400
DALLAS TX 75201

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FEB 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Ruef et al.	:	
Application No. 10/307,613	:	DECISION ON PETITION
Filed: 2 December, 2002	:	
Atty Docket No. 1037.1001	:	

This is a decision on the petition filed on 30 January, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 26 June, 2005, for failure to timely reply to the non-final Office action mailed on 25 March, 2005, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 2 November, 2005.

---

[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 have filed an amendment as the required reply.

This application is being referred to Technology Center 2681 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Warner Norcross & Judd LLP
900 Fifth Third Center
111 Lyon Street, N.W.
Grand Rapids MI 49503-2487

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JAN 12 2010

In re Application of	:	
Timothy P. Coffield	:	
Application No. 10/307,632	:	NOTICE
Patent No. 7,021,718	:	
Filed: December 2, 2002	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to Terri Johnson at (571) 272-2991.

Chris Bottorff
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

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI OH 45224

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DEC 0 3 2004

OFFICE OF PETITIONS

In re Patent No. 6,797,688
Issue Date: September 28, 2004 :
Application No. 10/307,634 :NOTICE OF IMPROPER RCE
Filed: December 2, 2002 :
Attorney Docket No. 6260C :

This is in response to the Request For Continued Examination (RCE) filed November 8, 2004.

The RCE is improper since a grantable petition to withdraw from issue was not received nor granted prior to the issuance of the instant application into a patent.

In view of the above, the RCE fee of $790.00 is being credited to deposit account no. 16-2480 as authorized.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The patented file is being referred to Files Repository.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

RECEIVED
CENTRAL FAX CENTER
MAY 0 3 2005

CERTIFICATE OF FACSIMILE TRANSMISSION 37 C.F.R. 1.6 &1.8
I CERTIFY THAT THIS CORRESPONDENCE IS BEING TRANSMITTED BY FACSIMILE TO THE PATENT AND TRADEMARK OFFICE ON THE DATE AND TO THE NUMBER SHOWN BELOW. FAX NO. 703-872-9306
COMPRISING THREE (3) SHEETS INCLUDING THIS PAGE.

Date: May 3, 2005

Samuel W. Apicelli
Reg. No. 38,427

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	:	10/307,639
Applicant	:	David Schneider
Filed	:	12/02/2002
Title	:	TUBULAR SLEEVE INSERT FOR CREATING A VOID IN PRECAST CONCRETE
TC/A.U.	:	1732
Examiner	:	Poe Michael I.
Docket No.	:	H1229-04033

Approved 7/13/05
Jacqueline M. Stone, Director
Technology Center 1700

REQUEST FOR WITHDRAWAL AS ATTORNEY

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The undersigned Attorney of Record, on behalf of himself and all Partners and associates of Duane Morris LLP, hereby applies to withdraw as attorneys of record, and requests approval and acknowledgment by the Office.

The reason for this request is that the inventor has chosen an alternate counsel. All related property concerning the subject patent has been delivered to the alternate counsel. Due notice to the alternate counsel, by copy of the Request, has been mailed concurrently to the address of the alternate counsel as stated hereinafter.

Please change the correspondence address and direct all future correspondence to the following:

PAGE 2/3 * RCVD AT 5/3/2005 4:28:27 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/7 * DNIS:8729306 * CSID:717 232 7615 * DURATION (mm-ss):01-24

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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OCT 2 6 2006

OFFICE OF PETITIONS

In re Application of	:	
NAMY	:	
Application No. 10/307,645	:	DECISION ON PETITION
Filed: December 2, 2002	:	TO WITHDRAW
Attorney Docket No. 02928.002000	:	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 July12, 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 Pasquale A. Razzano on behalf of all attorneys of record who are associated with customer No. 02928. All attorneys/agents associated with the Customer Number 02928 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 Xavier Namy at the address indicated below. There is an outstanding Office action mailed October 10, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: **Xavier Namy**
La Planche Chemin des Clampeaux
Petthes en Gatinais, France 77930

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 6

CLIFFORD CHANCE US LLP
200 PARK AVENUE
NEW YORK NY 10166

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AUG 0 8 2003

OFFICE OF PETITIONS

In re Application of
Bowen, et al.
Application No.: 10/307,661
Filed: December 2, 2002
Attorney Docket No.: 6596/5
For: METHOD AND SYSTEM FOR SECURITIZING CONTRACTS VALUED ON AN INDEX

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed July 23, 2003 (certificate of mailing date July 21, 2003).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on December 2, 2002 without an executed oath or declaration. Accordingly, on January 23, 2003, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on July 23, 2003 (certificate of mailing date July 21, 2003), a request for a four month extension of time and required fee, a declaration executed by 6 of 7 joint inventors, the surcharge, the petition fee, and the instant petition were filed. The petition is accompanied by a declaration of Attorney Mitchell S. Feller, who explains that Mr. Salomon, the non-signing inventor, was e-mailed the application and declaration and that Mr. Salomon's attorney's subsequently refused on his client's behalf to cooperate in the filing of this application.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (2) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63

and 1.64 still has not been presented. The declaration contains noninitialed, nondated alteration to Donald Carden's information. 37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. The Office will not consider whether noninitialed and or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. See MPEP 605.04(a). An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of Mr. Salomon is REQUIRED. See MPEP 409.03(a).

Fortunately, the deficiency or inaccuracy in question relates to a signing inventor. Thus, pursuant to 37 CFR 1.67(a)(2), Mr. Carden can correct his information on a supplemental declaration identifying the entire inventive entity and listing their information, but signed only by him.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITION Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 308-6916 Attn: Office of Petitions
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 9

CLIFFORD CHANCE US LLP
200 PARK AVENUE
NEW YORK NY 10166

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OCT 02 2003

OFFICE OF PETITIONS

In re Application of
Bowen, et al.
Application No.: 10/307,661
Filed: December 2, 2002
Attorney Docket No.: 6596/5
For: METHOD AND SYSTEM FOR SECURITIZING CONTRACTS VALUED ON AN INDEX

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed September 11, 2003.

The petition is granted.

Petitioners have shown that the non-signing inventor, David Salomon, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Attorney Mitchell S. Feller, explains that Mr. Salomon was e-mailed the application and declaration and that Mr. Salomon's attorney subsequently refused on his client's behalf to cooperate in the filing of this application. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 1/13/05

TO SPE OF : ART UNIT 3636

SUBJECT : Request for Certificate of Correction on Patent No.: 6692074 B1

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Virginia Tolbert
Certificates of Correction Branch

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☑ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Col. 6, line 5, the change should read --wherein said actuators are--.
Col. 6, line 21, the change results in a multiple sentence claim.
Col. 6, line 64, the change results in a multiple sentence claim.

JC

SPE

3636
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

DLA PIPER LLP (US)
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO, CA 92121-2133

Mail Date: 04/21/2010

Applicant	: Faezeh M. Sarfarazi	: DECISION ON REQUEST FOR
Patent Number	: 7662179	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/307,679	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/02/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

BRYAN ROCKWELL
CARRIER CORPORATION
CARRIER PARKWAY
P.O. BOX 4800
SYRACUSE, NY 13221

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APR 2 3 2004

OFFICE OF PETITIONS

In re Application of :
Christopher A. Wyker, et al. :
Application No. 10/307,688 :
Filed: December 2, 2002 :
Attorney Docket No. 10600 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 13, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed January 21, 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 at midnight on March 21, 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

10/307,702

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/5/04

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 6713 499

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Lamonte Newsome

Thank You For Your Assistance — **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

The changes to claims 12, 14, 15 and 16 are not approved. Errors could not be found in these claims. [redacted]

[redacted]

JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600
SPE 12/14/04

1626
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Sony Corporation of America
16530 VIA ESPRILLO, MZ 7190
SAN DIEGO, CA 92127

Mail Date: 04/21/2010

Applicant	: John Libera	: DECISION ON REQUEST FOR
Patent Number	: 7586548	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/307,703	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/02/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1465** 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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Fish & Neave IP Group of
Ropes $ Gray LLP
One International Place
Boston MA 02110

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MAR 25 2010

OFFICE OF PETITIONS

In re Patent No. 7,396,917	:
Bowdish et al.	: DECISION UPON REMAND AND
Issue Date: July 8, 2008	: RECONSIDERATION OF
Application No. 10/307,724	: PATENT TERM ADJUSTMENT
Filed: December 2, 2002	: AND NOTICE OF INTENT
Attorney Docket No. ALXN -PO2-	: TO ISSUE CERTIFICATE OF
054	: CORRECTION
Title: Rationally Designed	:
Antibodies	

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by six hundred and fifty-three (653) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by six hundred and fifty-three (653) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,396,917 B2

DATED : **July 8, 2008** **DRAFT**

INVENTOR(S) : Bowdish 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 413 days

Delete the phrase "by 413 days" and insert – by 653 days--

Day : Tuesday
Date: 3/23/2010

PALM INTRANET

Time: 16:35:25

PTA Calculations for Application: 10/307724			
Application Filing Date:	12/02/2002	PTO Delay (PTO):	575
Issue Date of Patent:	07/08/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	162
Post-Issue Petitions:	0	Total PTA (days):	653
PTO Delay Adjustment:	240		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
117	03/23/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	240		
108.5	06/18/2008	PTA 36 MONTHS			
108	07/08/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
107	06/11/2008	EXPORT TO FINAL DATA CAPTURE			
106	06/10/2008	FINISHED INITIAL DATA CAPTURE			
105	06/10/2008	DISPATCH TO FDC			
104	05/29/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
103	05/23/2008	ISSUE FEE PAYMENT VERIFIED			
102	05/28/2008	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
101	05/23/2008	ISSUE FEE PAYMENT RECEIVED			
100	05/23/2008	RESPONSE TO AMENDMENT UNDER RULE 312			
99	05/05/2008	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		24	102
98	03/10/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
97	02/29/2008	EXPORT TO INITIAL DATA CAPTURE			
96	02/25/2008	MAIL NOTICE OF ALLOWANCE	49		74
95	02/25/2008	MAIL EXAMINER'S AMENDMENT			
94	02/21/2008	ISSUE REVISION COMPLETED			
93	02/21/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
92	02/21/2008	CASE DOCKETED TO EXAMINER IN GAU			
91	01/31/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
90	01/31/2008	DOCUMENT VERIFICATION			
89	01/29/2008	EXAMINER'S AMENDMENT COMMUNICATION			

88	01/29/2008	NOTICE OF ALLOWABILITY			
87	01/29/2008	DATE FORWARDED TO EXAMINER			
86	01/29/2008	MAIL APPEALS CONF. REJ. WITHDRAWN			
83	01/24/2008	PRE-APPEALS CONFERENCE DECISION - REJECTION WITHDRAWN			
80	12/12/2007	REQUEST FOR PRE-APPEAL CONFERENCE FILED			
79	12/12/2007	NOTICE OF APPEAL FILED			
78	12/12/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
77	09/27/2007	MAIL ADVISORY ACTION (PTOL - 303)			
76	09/26/2007	ADVISORY ACTION (PTOL-303)			
75	09/13/2007	DATE FORWARDED TO EXAMINER			
74	09/07/2007	AMENDMENT AFTER FINAL REJECTION			
73	07/10/2007	MAIL FINAL REJECTION (PTOL - 326)			
72	07/06/2007	FINAL REJECTION			
71	04/19/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
70	05/04/2007	DATE FORWARDED TO EXAMINER			
69	04/19/2007	RESPONSE AFTER NON-FINAL ACTION		93	55
68	04/19/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
67	04/19/2007	REFERENCE CAPTURE ON IDS			
66	04/19/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
65	04/19/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
57	03/01/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
56	02/22/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
55	10/16/2006	MAIL NON-FINAL REJECTION			
54	09/29/2006	NON-FINAL REJECTION			
53	07/31/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
52	09/12/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
51.7	09/12/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
51	09/12/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

50	07/31/2006	REFERENCE CAPTURE ON IDS			
49.7	07/31/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
49	07/31/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
48	08/03/2006	DATE FORWARDED TO EXAMINER			
47	07/31/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
46	08/03/2006	DATE FORWARDED TO EXAMINER			
45	07/31/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
44	08/03/2006	DISPOSAL FOR A RCE / CPA / R129			
43	07/31/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
42	07/31/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
41	03/08/2006	MAIL FINAL REJECTION (PTOL - 326)			
40	03/02/2006	FINAL REJECTION			
39	12/30/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
38	12/30/2005	REFERENCE CAPTURE ON IDS			
37.7	12/30/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	35
37	12/30/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	01/31/2006	DATE FORWARDED TO EXAMINER			
35	12/30/2005	RESPONSE AFTER NON-FINAL ACTION		3	31
34	10/25/2005	CORRESPONDENCE ADDRESS CHANGE			
33	10/25/2005	CORRESPONDENCE ADDRESS CHANGE			
32	10/25/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
31	09/27/2005	MAIL NON-FINAL REJECTION			
30	09/02/2005	NON-FINAL REJECTION			
29	08/15/2005	DATE FORWARDED TO EXAMINER			
28	08/08/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
27	07/12/2005	MAIL RESTRICTION REQUIREMENT	526		-1
26	07/11/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
25	07/05/2005	CASE DOCKETED TO EXAMINER IN GAU			
24	06/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
23	12/13/2003	CASE DOCKETED TO EXAMINER IN GAU			
		IFW TSS PROCESSING BY TECH CENTER			

22	12/13/2003	COMPLETE			
21	05/27/2003	AMENDMENT CROSSED IN MAIL			
20	09/03/2003	APPLICATION RETURN FROM OIPE			
19	09/03/2003	APPLICATION IS NOW COMPLETE			
18	09/03/2003	PRE-EXAM OFFICE ACTION WITHDRAWN			
17	09/03/2003	APPLICATION RETURN TO OIPE			
16	09/03/2003	APPLICATION DISPATCHED FROM OIPE			
15	09/03/2003	APPLICATION IS NOW COMPLETE			
14	05/27/2003	ADDITIONAL APPLICATION FILING FEES		42	4
13	05/27/2003	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
12	12/02/2002	CLAIM PRELIMINARY AMENDMENT			
11	06/18/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
10	06/03/2003	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
9	06/03/2003	RECEIPT OF ACKNOWLEDGMENT LETTER			
8	03/27/2003	SEQUENCE ERRORS			
6	03/05/2003	ADDITIONAL APPLICATION FILING FEES			
5	03/05/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	01/15/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	01/03/2003	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
2	12/06/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/02/2002	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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MICHAEL A. JASKOLSKI
QUARLES & BRADY, LLP
411 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202

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JAN 3 1 2007

OFFICE OF PETITIONS

In re Patent No. 6,820,093	:	
Issue Date: November 16, 2004	:	
Application No. 10/307,734	:	NOTICE
Filed: December 2, 2002	:	
Attorney Docket No. 250591.90431	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Liana Walsh
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 20040304

In re Application of NISHIO ET AL.
Appl. No.: 10/307,774
Filed: December 02, 2002
For: RECORDING MEDIA UNIT

WITHDRAWAL FROM ISSUE
37 CFR 1.313

MAR 15 2004

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

If the issue fee and the publication fee have been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue and Publication Fee Due, applicant may request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified on the new Notice of Allowance and Issue and Publication Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

The application is being forwarded to the examiner for action.

Richard Seidel
Director
Patent Examining Technology Center 2800

LADAS & PARRY
224 SOUTH MICHIGAN AVENUE, SUITE 1200
CHICAGO, IL 60604

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SUITE 600
SALT LAKE CITY, UT 84111

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In re Application of :
Breyta, et al. :
Application No. 10/307,777 : ON PETITION
Filed: December 2, 2002 :
Attorney Docket No. SJO920020103US1 :

This is a decision on the petition under 37 C.F.R. § 1.137(a), filed February 9, 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(a)."

This application became abandoned for failure to timely file a proper reply to the "Requirement for Restriction/Election" mailed June 17, 2005, which set a one (1) month period for response. Accordingly, this application became abandoned on July 18, 2005.

The required $500.00 petition fee (*see* 37 CFR 1.17(l)) has not been submitted. Petitioner indicated on the "Fee Transmittal" that a $500.00 check was to be submitted with the instant petition, however, a check was not found with the February 9, 2006 submission. As such, the petition cannot be reviewed on the merits at this time and must be dismissed.

Further correspondence with respect to the instant petition under 37 CFR 1.137(a) should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KUNZLER & ASSOCIATES
8 EAST BROADWAY
SUITE 600
SALT LAKE CITY, UT 84111

COPY MAILED
OCT 0 6 2006
OFFICE OF PETITIONS

In re Application of	:	
Breyta et al.	:	
Application No. 10/307,777	:	
Filed: December 12, 2002	:	Decision on Petition
Attorney Docket Number:	:	
SJO920020103US1	:	

This is a decision on the renewed petition under 37 CFR 1.137(a), filed July 10, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any further petition to revive the above-identified application (under 37 CFR 1.137(a)), must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under 37 CFR 1.137", and be addressed to Petitions Attorney Derek L. Woods. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Office Communication mailed June 17, 2005. The Office Communication set a one (1) month period for reply, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned July 18, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

A petition under 37 CFR 1.137(a), filed February 9, 2006, was dismissed in a Decision mailed April 5, 2006, for failing to

meet the requirements of a grantable petition under 37 CFR 1.137(a). Applicant was required to submit the petition fee.

The merits of the petition

Applicant asserts that a timely reply was timely filed via facsimile on July 11, 2005. Applicant provides that the facsimile number in the Office communication, 703-872-9306, appeared to be a valid number.

Applicable Law, Rules and MPEP

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (**1**)the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**3**) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (**4**) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition lacks item (**3**).

The general standard applied by the Office requires petitioner to establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.[1]35 U.S.C. 41(c)(1) states, "The Commissioner may accept the payment of any maintenance fee ... at any time ... if the delay is shown *to the satisfaction of the Commissioner* to have been unavoidable." (emphasis added). "In the specialized field of patent law, ... the Commissioner of Patent and Trademarks is primarily responsible for the

[1] The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

application and enforcement of the various narrow and technical statutory and regulatory provisions. His interpretation of those provisions is entitled to considerable deference." Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA)1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir. 1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg, 849 F.2d 1422, 1425, 7 U.S.P.Q.2d (BNA) 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.").

"The critical phrase 'unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable' has remained unchanged since first enacted in 1861." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for "unavoidable" delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F.3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1787 (Fed. Cir. 1995) (citing In re patent No. 4,409,763, 7 U.S.P.Q.2d (BNA) 1798, 1800 (Comm'r Pat. 1990; Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which "requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business." In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)). However, "The question of whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case-by-case basis, taking all of the facts and circumstances into account."[2] Nonawareness of the content of, or a misunderstanding of, PTO statutes, PTO rules, the MPEP, or Official Gazette notices, does not constitute unavoidable delay.[3] The statute requires a "showing"

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[2] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[3] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute

by petitioner. Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. 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.

Applicant is further advised that the 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 inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987). Specifically, petitioner's delay caused by the actions or inactions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. 133 or 37 CFR 1.137(a). Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (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). 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).

Finally, a "delay (in responding) resulting from the lack of knowledge or improper application of the patent statute, rules of practice, or MPEP, [] does not constitute unavoidable delay." MPEP 711.03(c).

"unavoidable" delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

Applicant's Assertion

Applicant asserts that the facsimile number in the Office communication, 703-872-9306, appeared to be a valid number.

Analysis

The Office communication provided: "The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306."

The MPEP 502.02(I)(A) states:

> Effective December 1, 2003, all patent application related correspondence transmitted by facsimile must be directed to the central facsimile number, with a few exceptions below. The central facsimile number is (571) 273-8300. Replies to Office actions including after-final amendments that are transmitted by facsimile must be directed to the central facsimile number.

As iterated Supra, a "delay (in responding) resulting from the lack of knowledge or improper application of the patent statute, rules of practice, or MPEP, [] does not constitute unavoidable delay." Id. While the failure to file a complete and proper (timely) reply may be said to be unintentional, it was not unavoidable.

Conclusion

The evidence has been considered but it fails to demonstrate that the reply to the Office Communication mailed June 17, 2005, was timely and properly filed by 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: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Kunzler & McKenzie
8 EAST BROADWAY
SUITE 600
SALT LAKE CITY, UT 84111

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JUN 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Breyta et al.	:	
Application No. 10/307777	:	ON PETITION
Filing or 371(c) Date: 12/02/2002	:	
Attorney Docket Number:	:	
SJO920020103US1	:	

This is a decision on the "Request for Reconsideration of Petition Under 37 CFR 1.137", which includes a Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed November 17, 2006. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely reply to the Office communication, mailed June 17, 2005. The Office communication set a one (1) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No complete and proper reply having been received, the application became abandoned on July 18, 2005. A Notice of Abandonment was mailed October 20, 2006.

Petitions under 37 CFR 1.137(a)

Applicant filed a response to the Office communication, along with a petition to revive the application under 37 CFR 1.137(a) on February 9, 2006. The Petition was dismissed in a Decision mailed April 5, 2006, because no petition fee had been submitted. Applicant filed a request for reconsideration of the petition on July 10, 2006, which was dismissed in a Decision mailed October 6, 2006, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(a).

The present petition

Applicant files the instant petition and has demonstrated that the failure to timely reply to the Office communication was unavoidable. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 3729 for processing of the response, and for further examination in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DAVID L. PRINCIPE
HODGSON RUSS LLP
SUITE 2000
ONE M&T PLAZA
BUFFALO, NY 14203-2391

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JUL 1 1 2005

OFFICE OF PETITIONS

In re Application of :
Tom Griffith :
Application No. 10/307,785 : ON PETITION
Filed: December 2, 2002 :
Attorney Docket No. 35683.

This is a decision on the petition, filed July 8, 2005 under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 6, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1732 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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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FROM DIRECTORS OFFICE

SEP 22 2005

TECHNOLOGY CENTER 3600

JOSEPH F. PETERS, JR.
40 PLANTATION DRIVE
MANNING SC 29102-9040

In re Application of	:	
Allison H. Fickling, Jr.	:	DECISION ON PETITION
Application No. 10/307,801	:	TO WITHDRAWL OF
Filed: December 02, 2002	:	HOLDING OF ABANDONMENT
For: CASTING NET METHOD AND	:	AND REQUEST TO WITHDRAW
APPARATUS	:	FROM REPRESENTATION

This in reply to the letter received in the United States Patent and Trademark Office (USPTO), on February 10, 2005, requesting withdrawal of abandonment and withdrawal from representation. This letter is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181. There is no fee associated with this petition.

The petition is **GRANTED**.

A review of the application file reveals that the Notice of Abandonment mailed December 13, 2004, specified that the application had become abandoned because the Office had received no reply to the Final rejection mailed February 23, 2004, in which a three-month extendable period for response was given.

A review of the record indicates that a timely filed Notice of Appeal was received on August 26, 2004, along with a valid Certificate of Mailing dated August 23, 2004 and a petition for a three-month extension of time. Thus abandonment was premature.

The Office apologizes for the erroneous Notice of Abandonment.

The Request to Withdraw from Representation filed concurrently with the request to withdraw abandonment is moot in view of the subsequently filed renewed power of attorney received February 25, 2005.

With the filing of the Request for Examination (RCE), received February 25, 2005, the application has been restored to pending status. An outstanding Office action was mailed June 27, 2005.

Kenneth J. Dorner,
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6587

KJD/rjc: 08/16/05

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

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JAN 2 0 2004

OFFICE OF PETITIONS

In re Application of
Agee et al.
Application No. 10/307,817
Filed: December 2, 2002
Attorney Docket No. 21402-502C
(CURA-802C)
For: NOVEL PROTEINS AND NUCLEIC
ACIDS ENCODING SAME

ON PETITION

This is a decision on the petition under 37 CFR 1.47(a), filed July 25, 2003. The present petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office apologizes for any inconvenience.

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of facts of Nicole Carlucci establishes that the inventors were mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that they sign the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The Office finance records indicate that petitioner submitted three petition fees on filing the present petition. Only one petition fee is necessary. Therefore, the duplicate petition fees of $260.00 will be refunded to Deposit Account No. 50-0311.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

John Herrmann
78 Barnshed Lane
Guilford, CT 06437

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JAN 2 0 2004

OFFICE OF PETITIONS

In re Application of :
Agee et al. :
Application No. 10/307,817 : LETTER
Filed: December 2, 2002 :
Attorney Docket No. 21402-502C :
(CURA-802C) :
For: NOVEL PROTEINS AND NUCLEIC :
ACIDS ENCODING SAME :

RECEIVED

FEB 1 7 2004

OFFICE OF PETITIONS

Dear Mr. Herrmann:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

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

INTELLECTUAL PROPERTY MANAGEMENT
BOEING MANAGEMENT COMPANY
P.O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

Mail Date: 04/20/2010

Applicant	: Todd W. Gould	: DECISION ON REQUEST FOR
Patent Number	: 7636568	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/307,818	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/02/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2150** 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

LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD FL 33022-2480

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OFFICE OF PETITIONS

In re Patent No. 6,891,762	:	
Issue Date: May 10, 2005	:	
Application No. 10/307,827	:	DECISION ON PETITION
Filed: December 2, 2002	:	
Attorney Docket No. J&R-0975	:	

This is a decision on the petition under 37 CFR 1.378(c), filed August 19, 2009 to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on May 11, 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.

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 a timely response 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 in paying the maintenance fee was in fact unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay in paying the maintenance fee was intentional, petitioner must so notify the Office. Also, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Additionally, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Brad Close
1747 Penn. Ave, Suite 300
Washington, DC 20006

UNITED STATES 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 29, 2008

Ashish K. Mithal
8 Hatikva Way
North Chelmsford, MA 01863

Patent No: 7,316,032 B2
Application No.: 10/307,832
Applicant: Amad Tayebi, et al.
Issued: January 1, 2008
Title: **METHOD FOR ALLOWING A CUSTOMER TO PREVIEW, ACQUIRE AND/OR PAY FOR INFORMATION AND A SYSTEM THEREFOR**

Request for Certificate of Correction:

Consideration had been given to your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.322.

Respecting the alleged errors in item # 60 on the title page and in column 1, line 12. The patent is printer in accordance with the record, as passed to issue. Per the examiner "***the data provided by applicant is not consistent with PTO records***".

In view of the foregoing, your request in these matters is hereby **denied.**

Correspondence concerning this matter should be filed and directed to Decisions and Certificate of Correction Branch.

Virginia Tolbert
For Mary Diggs, Supervisor
Decisions and Certificate of Correction
(703) 305-8309 or 308-9390 ext. 113

vt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : ~~7/28/08~~ 11/12/09 **Paper No.:** ——

TO SPE OF : ART UNIT 2431

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/307832 Patent No.: 7316032 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

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: okay to enter

William Korzuch 2431