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JOHN J. BORRECA
33 HAWLEY AVENUE
STATEN ISLAND NY 10312

COPY MAILED

JAN 20 2006

OFFICE OF PETITIONS

In re Application of	:	
John Joseph Borreca	:	
Application No. 10/307,847	:	ON PETITION
Filed: March 6, 2003	:	
Attorney Docket No. None	:	

This is a decision on the papers, filed July 6, 2005, and supplemented on August 15, 2005, which is being treated as a petition under 37 CFR 1.181(a) to Withdraw Holding Of Abandonment of 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. No Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181(a)."

This application was held abandoned for failure to timely reply to the Nonfinal Office action mailed December 10, 2004.

In support of the petition to withdraw the holding of abandonment, petitioner has submitted a copy of the US Post Office Certified Receipt dated January 3, 2005, and a copy of the Post Card receipt showing a receipt stamp date of January 7, 2005 in the USPTO. However, the papers acknowledged as having been received by the USPTO have not to date been located or associated with the application file. Accordingly, petitioner must supply a copy of the required reply to the Office action mailed December 10, 2004, before the application can be restored to pending status.

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

By mail: Mail Stop PETITIONS

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

By hand: Customer Window located at:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

Karen Creasy

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

Furgang & Adwar, L.L.P.

FACSIMILE COVER SHEET

FACSIMILE NOS.:

(212) 941-9711
(914) 428-0226
(845) 353-1996

TELEPHONE NOS.:

(212) 725-1818
(914) 428-5300
(845) 353-1818

RECEIVED
CENTRAL FAX CENTER
JAN 2 5 2006

DATE: January 25, 2006

OUR FILE NO:

TO: Ms. Karen Creasy - Office of Petitions
COMPANY OR FIRM: United States Patent and Trademark Office

RE: Attached Petition

Total number of pages, including this page: 3

Facsimile Number Dialed: 1-571-273-8300 (3333)

CONFIDENTIALITY NOTE: The information contained in this facsimile message is privileged and confidential, intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copy of this facsimile is strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone and return the original message to us at:

Rockefeller Center, 1230 Avenue of the Americas - 7th Floor, New York, New York 10020
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Westchester Financial Center, 11 Martine Avenue, White Plains, New York 10606
or
Centerock East, 2 Crosfield Avenue, West Nyack, New York 10994

Message:

Dear Ms. Creasy:

The attached petition was mailed to us in error.

Thank you.

Furgang & Adwar, LLP

IF YOU DO NOT RECEIVE LEGIBLE COPIES OF ALL PAGES, PLEASE ADVISE US AS SOON AS POSSIBLE

PAGE 1/3 * RCVD AT 1/25/2006 3:36:16 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/25 * DNIS:2738300 * CSID: * DURATION (mm-ss):00-58

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOHN J. BORRECA
33 HAWLEY AVENUE
STATEN ISLAND NY 10312

COPY MAILED

JAN 2 0 2006

OFFICE OF PETITIONS

In re Application of
John Joseph Borreca
Application No. 10/307,847
Filed: March 6, 2003
Attorney Docket No. None

ON PETITION

This is a decision on the papers, filed July 6, 2005, and supplemented on August 15, 2005, which is being treated as a petition under 37 CFR 1.181(a) to Withdraw Holding Of Abandonment of 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. No Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181(a)."

This application was held abandoned for failure to timely reply to the Nonfinal Office action mailed December 10, 2004.

In support of the petition to withdraw the holding of abandonment, petitioner has submitted a copy of the US Post Office Certified Receipt dated January 3, 2005, and a copy of the Post Card receipt showing a receipt stamp date of January 7, 2005 in the USPTO. However, the papers acknowledged as having been received by the USPTO have not to date been located or associated with the application file. Accordingly, petitioner must supply a copy of the required reply to the Office action mailed December 10, 2004, before the application can be restored to pending status.

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Alexandria, VA 22314

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

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

Karen Creasy

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

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JOHN J. BORRECA
P.O. BOX 90254
PRINCESS BAY STATION
STATEN ISLAND, NY 10309

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OCT 0 2 2006

OFFICE OF PETITIONS

In re Application of John Joseph Borreca Application No. 10/307,847 Filed: March 6, 2003 For: MASTER FIGHTER	: : : : :	DECISION ON PETITION

This is a decision on the renewed petition, filed February 15, 2006 under 37 CFR 1.181 (a) (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

This application was held abandoned for failure to timely respond to the Office action of December 10, 2004, which set a three month shortened statutory period for reply. A reply was due on or before March 10, 2005.

Petitioner has submitted a copy of a return post card from the U.S. Patent and Trademark Office (USPTO) which bears the receipt date of January 7, 2005. However, **MPEP 503** states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, the copy of the receipt submitted, does not itemize the papers submitted on January 7, 2005.

In view of the above, the holding of abandonment remains.

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

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

By hand: Customer Window located at:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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SCHMEISER, OLSEN & WATTS
22 CENTURY HILL DRIVE
SUITE 302
LATHAM NY 12110

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AUG 13 2008

In re Application of Gieskes, Koenraad Application No. 10/307,848 Filed: December 2, 2002 Attorney Docket No. UIC-207	: : : : :	DECISION ON PETITION

This is a decision in response to the petition filed May 19, 2008, to revive the above identified application under the provisions of 37 CFR 1.137(b). Petitioner also requests that the petition under 37 CFR 1.137(a) filed December 5, 2007 be disregarded, as it was inadvertently filed.

Since the request to disregard the petition filed December 5, 2007 was made prior to consideration, the petition is dismissed without consideration of the merits. A decision on the petition under 37 CFR 1.137(b) follows.

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

The application became abandoned for failure to submit an oath or declaration in compliance with 37 CFR 1.67(a) in a timely manner in reply to the Notice of Allowability, mailed June 18, 2007, which set a period for reply of three (3) months. Accordingly, this application became abandoned on September 19, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a declaration in compliance with 37 CFR 1.67(a), (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to the Office of Data Management for processing into a patent.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 17, 2007

Christina A. Johnson

TO SPE OF : ART UNIT 1732

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/307,855 Patent No.: 7238312 B2

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

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

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

Antonio Johnson

Certificates of Correction Branch

703-308-9390 ext. 111

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

Christina Johnson CL

SPE

1732

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH
PATENT DOCKET RM. BLDG. K1-4A59
NISKAYUNA NY 12309

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MAR 1 2 2007

OFFICE OF PETITIONS

In re Patent No. 6,861,482	: DECISION DISMISSING PETITION
Issue Date: 03/01/2005	: UNDER 37 CFR 1.78(a)(3)
Application No. 10/307,873	: AND REQUEST FOR
Filing or 371(c) Date: 12/02/2002	: CERTIFICATE OF CORRECTION
Attorney Docket No. 40230-276114 (RD 29,522/2	:

This is a decision on the petition, filed October 11, 2006, which is being treated as a petition under 37 CFR §§ 1.78(a)(3), seeking to correct a claim for priority under 35 U.S.C. §120 for the benefit of priority to the prior-filed applications set forth in the concurrently filed certificate of correction.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed application, no. 09/966,127, filed September 28, 2001, is not acceptable as drafted since it improperly incorporates by reference the prior-filed application.

An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a). "When a benefit claim 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, unless an incorporation by reference statement of the prior application was presented upon filing of the application." *See Dart Indus. v. Banner,* 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP § 201.11 (III).

If reconsideration of this petition is desired, a renewed petition under 37 CFR §§ 1.78(a)(3) and a Certificate of Correction to correct the above matter is required.

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

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

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

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

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

Christina Tartera Donnell

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

UNITED STATES PATENT AND TRADEMARK OFFICE

#5

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UNITED STATES PATENT AND TRADEMARK OFFICE
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FROM DIRECTORS OFFICE

OCT 19 2004

TECHNOLOGY CENTER 3600

Kimberly A. Chasteen
Williams Mullen
One Old Oyster Point Road
Newport News, VA 23602

In re Application of
Richard P. Carnahan et al.
Application No. 10/307,878
Filed: December 2, 2002
For: ARTIFICIAL REEF

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply applicants' correspondence filed December 2, 2003, taken as a Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 filed in the United States Patent and Trademark Office on April 9, 2004.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a proper response to the Office action dated April 22, 2003 and a Notice to that effect was mailed on November 28, 2003.

A review of the file indicates that a response was filed on December 2, 2003 by facsimile transmission. The copy of the response submitted with the petition includes a Certificate of Mailing dated October 22, 2003.

Any petition to withdraw the holding of abandonment based upon a Certificate of Mailing must include the following requirements:

(1) A copy of the original response bearing a signed Certificate of Mailing which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the *original* response on the date indicated on the Certificate of Transmission (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above the petition fails, under requirement (2), to also include a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of sending the *original* response by facsimile transmission on the date indicated on the certificate, by the person who signed the certificate.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."

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

SNM/vdb: 10/12/04

UNITED STATES PATENT AND TRADEMARK OFFICE

#7
DW

DEC 22 2004

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

MAILED

DEC 22 2004

OFFICE OF THE DIRECTOR
TC 3600

Kimberly A. Chasteen
Williams Mullen
One Old Oyster Point Road
Newport News, VA 23602

In re Application of
Richard P. Carnahan, et al.
Application No. 10/307,878
Filed: December 2, 2002
For: ARTIFICIAL REEF

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicants' renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on November 17, 2004.

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

☐ Postcard receipt being dated_____.

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

☒ Certificate of Mailing signed on October 22, 2003, and supported by a statement under 37 C.F.R. 1.8(b)(3).

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

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

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

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

KJD/rwg: 12/6/04

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

Michael B. McNeil
Liell & McNeil Attorneys PC
P.O. Box 2417
511 S. Madison Street
Bloomington IN 47402

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SEP 15 2006

OFFICE OF PETITIONS

In re Application of
Matthew J. Alger et al.
Application No. 10/307,882
Filing Date: December 2, 2002
Attorney Docket No.: 02-199
Title: POWER GENERATION SYSTEM HAVING AN EXTERNAL PROCESS MODULE

DECISION ON PETITION UNDER 37 C.F.R. § 1.137(B)

This is a decision on the petition under 37 C.F.R §1.137(b)[1], filed June 5, 2006, 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 November 2, 2005, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on February 3, 2006. A notice of abandonment was mailed on May 11, 2006.

---

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

With the present petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay. It is noted that a terminal disclaimer is not necessary.

Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). As such, the petition is **GRANTED**.

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

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

Paul Shanoski

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

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 13, 2006

TO SPE OF : ART UNIT 2675

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/307,958 Patent No.: 6,937,226

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 13, 2006

TO SPE OF : ART UNIT 2675

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/307,958 Patent No.: 6,937,226

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Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

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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/ — **SPE**

2629 — **Art Unit**

Docket No. 3247 7015

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

U.S. Application No.	10/307,960	Filing Date:	December 3, 2002
Inventors:	Mason *et al.*	Group No.:	Not Yet Assigned
		Examiner:	Not Yet Assigned
For:	HIGH CAPACITY PURIFICATION OF THERMALLY UNSTABLE COMPOUNDS		

PETITION TO EXPUNGE PROPRIETARY MATERIAL UNDER 37 C.F.R. § 1.59(b)

BOX PETITIONS
ATTN: Examiner Francis Hicks

RECEIVED
MAR 03 2003
OFFICE OF PETITIONS

Commissioner for Patents
Washington, D.C. 20231

Sir:

Applicants hereby petition that Proprietary Document #1 enclosed with Information Disclosure Statement # 2 which is filed under 37 C.F.R. §1.56 And In Accordance With MPEP §724 concurrently herewith be expunged from the application file and returned as soon as possible to Applicants' undersigned representative. Proprietary Document #1 is a proprietary and trade secret document which is intended to be kept proprietary and maintained as trade secret by Applicants. It is Applicants' understanding that Proprietary Document #1 has not yet been published or otherwise made public to date. Applicant is committed to retaining Proprietary Document #1 for the period of any patent with regard to which the information is submitted. This Petition is being submitted by, or on behalf of, the party of interest who originally submitted this information (Proprietary Document #1).

Applicant petitions that Proprietary Document # 1 be kept proprietary, not open to the public, and expunged in accordance with MPEP §724. Public disclosure of these materials would cause irreparable harm to Applicants.

Proprietary Document # 1 is sealed in a separate envelope clearly marked "PROPRIETARY MATERIAL NOT OPEN TO THE PUBLIC. TO BE OPENED ONLY BY AN EXAMINER OR AUTHORIZED U.S. PATENT AND TRADEMARK OFFICE EMPLOYEE." and "Proprietary Document # 1", in accordance with the requirements of MPEP §724. Further, Proprietary Document # 1 is also identified with labels stating "Not Open To The Public" and "Proprietary Document # 1".

A check for the requisite Petition fee of $130.00 (37 CFR § 1.17) is attached.

AUTHORIZATION

The Commissioner is hereby authorized to charge any insufficient fees or refund any overpayment, in regard to this paper, to Deposit Account No. 13-4503, Order No. 3247 7015. A DUPLICATE COPY OF THIS PAGE IS ATTACHED.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: March 3, 2003

By: Eric G. Wright

Eric G. Wright
Registration No. 48,045
(202) 857-7887 Telephone
(202) 857-7929 Facsimile

Correspondence Address:
MORGAN & FINNEGAN, L.L.P.
345 Park Avenue
New York, NY 10154-0053

2826

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ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS, VA 20165

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FEB 05 2004

OFFICE OF PETITIONS

In re Application of
Hongyong Zhang
Application No. 10/307,966
Filed: December 3, 2002
Attorney Docket No. 0756-7088

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 29, 2004, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 29, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 2826 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATENT & TRADEMARK OFFICE

ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS, VA 20165

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FEB 05 2004

OFFICE OF PETITIONS

In re Application of
Hongyong Zhang
Application No. 10/307,966
Filed: December 3, 2002
Attorney Docket No. 0756-7088

PZL :
2/9/04

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 29, 2004, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 29, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 2826 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

AKIN GUMP STRAUSS HAUER & FELD
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

COPY MAILED

DEC 2 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Chyh-Yih Chang et al	:	
Application No. 10/307,969	:	ON PETITION
Filed: December 3, 2002	:	
Attorney Docket No. 06720.0092	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 14, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 21, 2005, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 22, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment filed on May 23, 2005; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of March 21, 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 2811.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

10/307 979

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-2-07

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/307979 Patent No.: 717888

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 COR 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. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: The certificate of correction is O.K. to be entered.

SPE

2627
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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DEC 23 2005

OFFICE OF PETITIONS

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

In re Application of	:	
Yoshihiro Shiode	:	
Application No. 10/307,981	:	ON PETITION
Filed: December 3, 2002	:	
Attorney Docket No. 00684.003401	:	

This is a decision on the petition, filed December 22, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on August 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 the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2877 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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JAN 06 2005

OFFICE OF PETITIONS

MCDERMOTT, WILL & EMERY
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

In re Application of	:	
Taishi Iwanaga et al	:	
Application No. 10/307,986	:	ON PETITION
Filed: December 3, 2002	:	
Attorney Docket No. 740819-937	:	

This is a decision on the petition, filed December 29, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on October 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 (571) 272-3208.

The examiner of Technology Center AU 2837 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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WINSTON & STRAWN
PATENT DEPARTMENT
1400 L STREET, NW
WASHINGTON, DC 20005-3502

OCT 18 2005

In re Application of:	:	
MLADEN IVANKOVIC	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Serial No.: 10/307,987	:	
Filed: December 03, 2002	:	
Attorney Docket No.: **104427-198**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed September 17, 2004.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys of Sand & Sebolt was filed on May 25, 2004. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant. The change of address filed by Jeffrey A. Wolfson on November 18, 2004 was not effective in changing the address since Mr. Wolfson is not an attorney/ agent of record. The correspondence address remains with Sand & Sebolt at this time.

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: SAND & SEBOLT
AEGIS TOWER, SUITE 1100
4940 MUNSON STREET, NW
CANTON, OH 44718-3615

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PRINTER'S TRIM LINE

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,803,996 B2

DATED : October 12, 2004

INVENTOR(S) : Takashi Kamono

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

Item (56), References Cited, U.S. Patent Documents, "8/2002 Imamura" should read --8/2002 Ballard et al.--.

COLUMN 5

Line 41, "aligns-the" should read --aligns the--.

Approved
5/6/05

ALAN DIAMOND
PRIMARY EXAMINER

Alan Diamond

MAILING ADDRESS OF SENDER:
FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3800
(212) 218-2100 - Telephone
(212) 218-2200 - Facsimile

PATENT NO. 6,803,996 B2

No. of add'l. copies @ 30¢ per page

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(94334)

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COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. BOX 1404
ALEXANDRIA VA 22313-1404

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MAR 2 0 2003

OFFICE OF PETITIONS

BEST AVAILABLE COPY

In re Application of
Mainz et al.
Application No. 10/308,009
Filed: December 3, 2002
Attorney Docket No. 029402-279

DECISION GRANTING PETITION

This is a decision on the petition filed February 4, 2003, to withdraw the "Notice of Omitted Item(s) in a Nonprovisional Application" mailed on January 21, 2003.

On December 3, 2002, applicants filed the above-identified application. On January 21, 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 December 3, 2002, and advising applicants that page 4 of the specification appeared to have been omitted.

In response, on February 4, 2003, applicants filed the present petition, the petition fee, and a copy of applicants' postcard receipt acknowledging receipt of 20 pages of specification. Additionally, applicants submitted a copy of page 4 of the specification with the present petition.

Upon review of the record, page 4 of the specification, deposited on December 3, 2002, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on December 3, 2002, included page 4, which was subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including page 4 of the specification, was complete on filing and will be granted a filing date of December 3, 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. 02-4800.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of December 3, 2002, using page 4 of the specification submitted on petition, and for 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
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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS TX 75201-2980

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OFFICE OF PETITIONS

In re Application of	:	
Richard Hans HARVEY	:	
Application No. 10/308,018	:	ON PETITION
Filed: December 3, 2005	:	
Attorney Docket No. Q73244	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 26, 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 10, 2005, 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 July 11, 2005.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application Nos. 11/234,928 and 11/239,559, both of which were filed September 26, 2005.

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

the filing of a grantable petition pursuant of 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

Brian Hearn
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

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JUN 16 2003

Director's Office
Group 3700

YOUNG & THOMPSON
745 SOUTH 23RD STREET 2ND FLOOR
ARLINGTON, VA 22202

Paper No. 3

In re Application of
THOMA, CHRISTIAN HELMUT
Application No.: 10/308,027
Filed: December 03, 2002

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed December 3, 2002 to make special under 37 CFR 1.102(d).

Since the requirements of 37 CFR 1.102(d) and MPEP 708.02, VIII have been met, the petition is granted.

The application is being forwarded to the examiner for an action on the merits.

Linda J. Sholl
Special Program Examiner
Technology Center 3700
Phone: (703) 308-1288

JA

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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JJGJR.: 07-05

Paper No: __

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OFFICE OF PETITIONS

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of	:	
Okawa	:	DECISION ON PETITION
Application No. 10/308,040	:	
Attorney Docket No. 1226-100	:	

This is a decision on the petition filed on 27 May, 2005, under 37 C.F.R. §1.137(a) to revive the application as abandoned due to unavoidable delay, but considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181 because of the facts alleged and evidence in the record.

For the reasons set forth below:

- the petition as considered under 37 C.F.R.§1.181 is **GRANTED** and the application has pending status; and
- under 37 C.F.R.§1.137(a) is **DISMISSED as moot**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Office action, to wit: the Restriction Requirement, mailed on 4 November, 2004, with reply due absent extension of time on or before Monday, 6 December, 2004;
- the application went abandoned after midnight 4 December, 2004;

- it appears that the Office did not mail a Notice of Abandonment before the instant petition was filed;

- Petitioner responds that:

  –the Restriction requirement was not received by his office;

  –a review of docketing materials show no evidence of receipt of the Restriction requirement a description of the procedures is provided; and

- Petitioner submits docketing documents suggesting the non-receipt.

As one registered to practice before the Office, Petitioner is aware that the Rules of Practice (37 C.F.R. Part 1) provide in pertinent part:

> **37 C.F.R. § 1.4 Nature of correspondence and signature requirements.**
>
> * * *
>
> (c) Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects. (Emphasis supplied.)
>
> * * *

Thus, Petitioner is aware that the inclusion of the Election and the Change of Address within the instant petition does not comply with the rule–these materials should be submitted as separate papers.

However, as of this writing, Office records do reflect Petitioner's new correspondence address.

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]

---

[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.

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

As to a Request to Withdraw
the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[7] (See: the commentary set forth at MPEP §711.03(c).)

Petitioner has satisfied the showing required under Delgar and thus to be considered under the provisions of 37 C.F.R. §1.181.

---

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

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

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

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

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

As to Allegations
of Unavoidable Delay

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 if the application was filed before 8 June, 1995.

The petition under 37 C.F.R. §1.137(a) is moot.

CONCLUSION

The petition:

- as considered under 37 C.F.R. §1.181 is **granted** application is considered in pending status; and
- under 37 C.F.R. §1.137(a) is **dismissed as moot** and the petition fee is refunded .

The instant file is released to Technology Center 1700 for further processing in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCHULTE ROTH & ZABEL LLP
ATTN: JOEL E. LUTZKER
919 THIRD AVENUE
NEW YORK, NY 10022

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NOV 1 6 2005

OFFICE OF PETITIONS

In re Application of	:
Andreas Kull	:
Application No. 10/308,045	: DECISION GRANTING PETITION
Filed: December 2, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 57517-6	:

This is a decision on the petition, filed November 14, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 18, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2653 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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Alexandria, VA 22313-1450
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MAY 18 2006

NATH & ASSOCIATES
112 SOUTH WEST STREET
ALEXANDRIA VA 22314

In re Application of	:
Mitchell I. Kirschner et al	:
Serial No.: 10/308,051	: PETITION TO MAKE SPECIAL
Filed: December 3, 2002	:
Attorney Docket No.: 24012-YX	:

This is in response to applicants' petition filed December 3, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(d). The delay in acting on this petition is regretted, however it was not noticed in the paper file wrapper during initial processing nor brought to the attention of the deciding office upon forwarding thereafter. It was properly coded at the time of conversion to IFW, but no action thereon requested.

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

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

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the general Office facsimile number, 571-273-8300.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/02/2005

TO SPE OF : ART UNIT 2800 (2818)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,734,573

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.

Ernest C. White, LIE305-8339
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

_____

_____

_____

_____

_____

SPE _____ **Art Unit** 2818

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Lerner & Greenburg, P. A.
Post Office Box 2480
Hollywood, FL 33022-2480

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AUG 17 2005

OFFICE OF PETITIONS

In re Patent No. 6,784,027	:	
Issue Date: August 31, 2004	:	
Application No. 10/308,079	:	ON PETITION
Filed: December 2, 2002	:	
Attorney Docket No. P2001,0808	:	

This is a decision on the petition filed November 15, 2004, to waive the rules and accept the correction of the assignee on the front page of the above-identified patent.

The petition is **DISMISSED**.

Petitioner states, "The petition fee set forth in 37 CFR 3.81(a) in the amount of $100.00 was paid on September 8, 2004, the date of the initial petition..." Petitioner should note that the $100 fee is the amount required when requesting a certificate of correction. See 37 CFR 1.20(a). The filing of a petition is separate from a request for certificate of correction. The petition fee required at the time of filing the present petition was $130. However, the fee increased to $400, effective December 8, 2004. Attached herewith are the current Fee Schedule and a Petition Fee Transmittal. Since the petition fee was not submitted when the petition was filed, petitioner must submit the current petition fee. The merits of the petition cannot be addressed until the $400 petition fee is provided.

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

Attachments: Fee Schedule
Petition Fee Transmittal

OIPE JC143
AUG 3 0 2005
PATENT & TRADEMARK OFFICE

DAC
IFW

Patent No.: 6,784,027

I hereby certify that this correspondence is being sent per facsmile transmission to 571-273-8300 addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.

By: _____ Date: August 23, 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patentee	:	Klaus Streubel, et al.
Patent No.	:	6,784,027
Issued	:	Aug. 31, 2004
Art Unit	:	2814
Examiner	:	Long Pham
Title	:	Light-Emitting Semiconductor Component
Docket No.	:	P2001,0808
Customer No.	:	24131

Attn: Marianne E. Jenkins
Hon. Commissioner for Patents
Mail Stop: Petitions
Alexandria, VA 22313-1450

LETTER

Sir:

This letter is responsive to the decision on petition dated August 17, 2005 counsel received from the U.S. Patent Office. Counsel hereby submits the petition fee in the amount of $400.00 in compliance with the decision.

The petition fee (37 CFR 1.182; 37 CFR 1.17(h)) of $400.00 is paid as follows:

Credit card as shown on the attached credit card information authorization form PTO-2038.

Respectfully submitted,

Werner H. Stemer
Reg. No. 34,956

Date: August 23, 2005
Lerner and Greenberg, P.A.
Post Office Box 2480
Hollywood, FL 33022-2480
Tel: (954) 925-1100
Fax: (954) 925-1101

/av

08/31/2005 TBESHAH1 00000003 6784027
01 FC:1462 400.00 OP

UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE JC143
AUG 30 2005
PATENT & TRADEMARK OFFICE

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AUG 19 2005
By

Lerner & Greenburg, P. A.
Post Office Box 2480
Hollywood, FL 33022-2480

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AUG 17 2005

OFFICE OF PETITIONS

In re Patent No. 6,784,027	:	
Issue Date: August 31, 2004	:	
Application No. 10/308,079	:	ON PETITION
Filed: December 2, 2002	:	
Attorney Docket No. P2001,0808	:	

This is a decision on the petition filed November 15, 2004, to waive the rules and accept the correction of the assignee on the front page of the above-identified patent.

The petition is **DISMISSED**.

Petitioner states, "The petition fee set forth in 37 CFR 3.81(a) in the amount of $100.00 was paid on September 8, 2004, the date of the initial petition..." Petitioner should note that the $100 fee is the amount required when requesting a certificate of correction. See 37 CFR 1.20(a). The filing of a petition is separate from a request for certificate of correction. The petition fee required at the time of filing the present petition was $130. However, the fee increased to $400, effective December 8, 2004. Attached herewith are the current Fee Schedule and a Petition Fee Transmittal. Since the petition fee was not submitted when the petition was filed, petitioner must submit the current petition fee. The merits of the petition cannot be addressed until the $400 petition fee is provided.

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

Attachments: Fee Schedule
Petition Fee Transmittal

UNITED STATES PATENT AND TRADEMARK OFFICE

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Lerner & Greenburg, P.A.
Post Office Box 2480
Hollywood, FL 33022-2480

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SEP 1 5 2005

OFFICE OF PETITIONS

In re Patent No. 6,784,027 :
Issue Date: August 31, 2004 :
Application No. 10/308,079 :
Filed: December 2, 2002 :
Attorney Docket No. P2001,0808 :

ON PETITION

This is a decision on the renewed petition filed August 30, 2005, to waive the rules and accept the correction of the assignee on the front page of the above-identified patent.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "Osram Opto Semiconductors GmbH." 37 CFR 3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name of an assignee is provided. 37 CFR 3.81(b) permits the patent to issue in the name of an assignee if the assignment was submitted after payment of the issue fee but ***prior to issuance of a patent***. Petitioner has provided a copy of the assignment cover sheet, which was submitted to the Office on October 12, 2004. Additionally, petitioner has provided a copy of the assignment document, which was executed by the two inventors on August 24, 2004 and September 21, 2004, respectively. U. S. Patent and Trademark Office assignment records confirm that an assignment from the inventors to "Osram Opto Semiconductors GmbH" was recorded on October 15, 2004, **after** the date of issuance of this patent. Since the assignment was not executed or submitted for recordation until after issuance of this patent, issuance of a certificate of correction to reflect the requested name would not be proper. *See* MPEP Section 307.

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

The patent file is being referred to the Files Repository.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STERNE KESSLER GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE NW
WASHINGTON, DC 20005

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JUL 29 2005

OFFICE OF PETITIONS

In re Application of	:
Janardhanan S. Ajit et al	:
Application No. 10/308,132	: DECISION GRANTING PETITION
Filed: December 3, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1875.2120001	:

This is a decision on the petition, filed June 16, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 4, 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 2816 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).*

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

KIRTON AND MCCONKIE
60 EAST SOUTH TEMPLE,
SUITE 1800
SALT LAKE CITY, UT 84111

Mail Date: 04/21/2010

Applicant	: Jan Jaskot	: DECISION ON REQUEST FOR
Patent Number	: 7651163	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/308,147	: 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 **1228** 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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HEATHER MORIN
Fish & Richardson P.C.
11th Floor
1425 K Street, N.W.
Washington DC 20005-3500

COPY MAILED
JUN 0 3 2004
OFFICE OF PETITIONS

Applicant: Siu
Application No. 10/308,154
Filed: December 3, 2002
For: SPLIT BODY PELTIER DEVICE FOR COOLING AND POWER GENERATION APPLICATIONS
Attorney Docket No: 13081-007001
Pub. No.: US 2003/0116869 A1
Pub. Date: June 26, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on August 26, 2003 for the above-identified application.

The request is granted-in-part.

The corrected patent application publication will be published in due course and will only include corrections for errors made by the Office.

A patent application publication is based on the application papers as originally filed, according to 37 CFR 1.215(a), which says the following, in part:

> (a) . . . The patent application publication will be based upon the application papers deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application . . . The patent application publication will not include any amendments, including preliminary amendments, unless applicant supplies a copy of the application containing the amendment pursuant to paragraph (c) of this section.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request also includes a mistakes that is not the fault of the Office, which will not be corrected by a corrected publication made by the Office.

The following error mentioned by applicant, will not be corrected in the corrected publication, as the error is not apparent from the Office record:

The alleged error in paragraph [0025] of the publication with respect to "$= 5(1.83 \times 10^{-6} + 19.5 \times 10^{-20})298$" will not be corrected as requested by applicant as the publication correctly reflects 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).

formula in the specification as filed on page 8, line 19.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), should be submitted via the EFS system and any question or request for reconsideration of this decision, should be addressed as follows:

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

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DEC - 8 2003

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

In re Application of	:
Berkley Lynch et al	:
Serial No.: 10/308,163	: PETITION TO MAKE SPECIAL
Filed: December 3, 2002	:
Attorney Docket No.: 053529-5007	:

This is in response to applicants' petition filed November 10, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

HALE AND DORR LLP
THE WILLARD OFFICE BUILDING
1455 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20004

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SEP 3 0 2003

OFFICE OF PETITIONS

In re Application of :
klimchynski :
Application No. 10/308,171 : ON PETITION
Filed: December 3, 2002 :
Attorney Docket No. 112893.121US1 :

This decision concerns the June 4, 2003 "Request for Corrected Filing Receipt" and the August 1, 2003 "Petition for Correction of Filing Date under 37 CFR 1.182." The submissions are being properly treated as a petition under 37 CFR 1.53 to correct the filing date in the above-referenced application.

The petition is **GRANTED.**

On December 3, 2002, the application was filed. On January 22, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Missing Parts of Nonprovisional Application" (1/22/03 Notice), stating that the application had been accorded a filing date of December 3, 2002, and that Figure 7 described in the specification appeared to have been omitted.[1] An extendable 2-month reply period was provided.

On March 12, 2003, Applicant filed a response to the 1/22/03 Notice and specifically elected the option III provided in the 1/22/03 Notice. In other words, Applicant did not dispute the 1/22/03 Notice, but chose not to submit the previously omitted Figure 7 at that point. In addition, Applicant filed a declaration and the application filing fees on the same day.

Subsequently, OIPE erroneously changed the filing date for this application to March 12, 2003, the date on which Applicant responded to the 1/22/03 Notice.

In view of the above, the petition is granted, in that, the application papers filed on December 3, 2002 are hereby accorded that filing date.

No petition fee is owed. The $130 charged to Deposit Account No. 08-0219 has been reversed.

---

[1] Also missing were the application basic filing fee, the extra claims fees, an oath or declaration.

The application is being returned to OIPE for further processing with a filing date of December 3, 2002, for mailing of a corrected filing receipt reflecting that filing date, and for indicating in the USPTO record that 6 sheets of drawings (Figures 1-6) were present on filing. Thereafter, the file will be forwarded to Technology Center 2100 for examination in due course.

Telephone inquiries should be directed to Petitions Attorney RC Tang at (703) 308-0763.

Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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HENRY DALEY
VENABLE LLP
575 7TH STREET, NW
WASHINGTON, DC 20004- - 160

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MAR 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Sandeep T. Vohra, et. al.	:	
Application No. 10/308,199	:	DECISION ON PETITION
Filed: December 3, 2002	:	TO WITHDRAW
Attorney Docket No. P291426	:	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 3, 2004.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney HENRY DALEY has been revoked by the assignee of the patent application on August 28, 2006. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

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

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

Carl Friedman
Petitions Examiner
Office of Petitions

cc: FSP LLC
P.O. BOX 890
VANCOUVER WA 98666

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 8

Thomas A. O'Rourke
Bodner & O'Rourke
425 Broadhollow Road
Melville, NY 11747

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NOV 12 2004

OFFICE OF PETITIONS

In re Application of :
Liang, et al. : DECISION ON PETITION
Application No. 10/308,203 :
Filed: December 2, 2002 :
Atty. Dkt. No.: CASEMENT WINDOW :
HINGE :

This is a decision on the petition under 37 CFR 1.137(b), filed August 18, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned March 25, 2003 for failure to timely file a proper response to the Notice to File Missing Parts of Nonprovisional Application ("Notice") mailed January 24, 2003. The Notice set a two (2) 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 January 28, 2004.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY & POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

Mail Date: 04/21/2010

Applicant	: Michael Friedrich	: DECISION ON REQUEST FOR
Patent Number	: 7599959	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/308,204	: 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 **404** 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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PYLE & PIONTEK, LLC
221 N LASALLE STREET , ROOM 1207
CHICAGO IL 60601

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DEC 1 6 2009

OFFICE OF PETITIONS

In re Application of	:	
Helmut W. Minne	:	
Application No. 10/308,210	:	DECISION ON PETITION
Filed: December 2, 2002	:	
Attorney Docket No. VAJP-40010	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 4, 2009, which set a shortened statutory period for reply of three (3) months. A two (2) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on August 5, 2009. The Notice of Abandonment was mailed September 28, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3765 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Patent No. 7,053,071 :
Issue Date: May 30, 2006 :
Application No. 10/308,241 : ON PETITION
Filed: December 2, 2002 :
Attorney Docket No. 1712.001US1 :

This is a decision on the petition filed June 28, 2007, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "THE BURNHAM INSTITUTE, LA JOLLA, CA (US); SRI INTERNATIONAL, MENLO PARK, CA (US); MOLECULAR MEDICINE RESEARCH, SUNNYVALE, CA (US); OREGON STATE UNIVERSITY, CORVALLIS, OR (US); DEPARTMENT OF VETERAN AFFAIRS, WASHINGTON D.C. (US); WAYNE STATE UNIVERSITY, DETROIT, MI (US)."

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 [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that an assignment from Joseph Fontana to "DEPARTMENT OF VETERAN AFFAIRS; WAYNE STATE UNIVERSITY" was recorded on July 11, 2006, **after the date of issuance of this patent**. Accordingly, since the

assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper for the above.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/308,243	12/02/2002	2876	740	SP02-255	7	18	1

CONFIRMATION NO. 1829

CORRECTED FILING RECEIPT

OC000000011743516

22928
CORNING INCORPORATED
SP-TI-3-1
CORNING, NY 14831

Date Mailed: 01/22/2004

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

Applicant(s)

Scott R. Bickham, Corning, NY;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 03/14/2003

Projected Publication Date: 06/03/2004

Non-Publication Request: No

Early Publication Request: No

Title

NZDSF optical fiber with low dispersion zero and low slope

Preliminary Class

385

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

GRANTED

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

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

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

NOT GRANTED

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

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Paper No. 6

MERCHANT & GOULD P.C.
P.O. BOX 2903
MINNEAPOLIS, MINNESOTA 55402-0903

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MAR 26 2003

OFFICE OF PETITIONS

In re Application of :
Eric Perrier :
Application No. 10/308,259 :
Filed: November 25, 2002 :
Attorney Docket No. 11123.51US01 :

NOTICE

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Merchant & Gould, PC
P.O. Box 2903
Minneapolis, MN 55402-0903

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APR 13 2007

OFFICE OF PETITIONS

In re Application of

Eric Perrier et al.
Application No. 10/308,259
Filed: November 25, 2002
Attorney Docket No. 11123.51US01

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 2007.

The request is **APPROVED**.

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

The request was signed by Sarah M. Monfeldt, former attorney with the firm of Merchant & Gould, PC.

Sarah M. Monfeldt has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Applicant is advised that a Final Rejection was mailed March 27, 2007. Failure to respond within the set or extended time period will result in the abandonment of this application.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

BASF BEAUTY CARE SOLUTIONS FRANCE
100 CAMPUS DRIVE
FLORHAM PARK NJ 07932

In re Application of	:	
Perrier, et al.	:	
Application No. 10/308,259	:	ON PETITION
Filed: November 25, 2002	:	
Attorney Docket No. 5246 US	:	

This is in response to petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed November 13, 2009.

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

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed November 27, 2007, which set a shortened statutory period for reply of three (3) months. No proper reply having been received, the application became abandoned on February 28, 2008. The Office mailed a Notice of Abandonment on June 17, 2008.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of a Request for Continued Examination.

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

The 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 is being forwarded to Group Art Unit 1654 for consideration of the RCE, filed November 13, 2009.

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

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Frank Chau
F. Chau & Associates, LLC
1300 Woodbury Road
Woodbury, NY 11797

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FEB 02 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

H. Gordon Shields
7830 North 23rd Avenue
Phoenix, AZ 85021

Paper No. 10

In re application of Jerry G. Crittenden Application No. 10/308,263 Filed: November 27, 2002 For: HINGE APPARATUS AND METHOD OF MAKING HINGE RECESS	: : : : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on December 29, 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 is a statement from the applicant and a copy of applicant's birth certificate indicating he is at least 65 years of age.

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

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

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

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

SNM/mjz: 1/29/04

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HUNG CHANG LIN
8 SCHINDLER COURT
SILVER SPRING, MD 20903

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FEB 23 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Jiahn-Chang Wu	:
Application No. 10/308,274	:
Filed: December 3, 2002	:
Attorney Docket No. Pen-8947C	:

This is a decision on the petition under 37 CFR 1.137(b), filed August 9, 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 Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed February 3, 2005, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 4, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment and (2) the petition fee. Accordingly, the reply to the Ex parte Quayle of February 3, 2005 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. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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

This matter is being referred to Technology Center AU 2826.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

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HANES & SCHUTZ, LLC
102 SOUTH TEJON ST.
SUITE 800
COLORADO SPRINGS, CO 80903

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MAR 0 8 2006
OFFICE OF PETITIONS

In re Application of	:	
Richard L. McFarland	:	
Application No. 10/308,284	:	ON PETITION
Filed: December 3, 2002	:	
Attorney Docket No. 1333.100	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on June 29, 2005, to revive the above-identified application.

The application became abandoned for failure to timely respond to the final Office action mailed November 26, 2004. A Notice of Abandonment was mailed on June 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 a Notice of Appeal with the $250 fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office also acknowledges receipt of $510 for a one (1) month extension of time. 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 $510 extension of time submitted on June 29, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner by Treasury Check, in due course.

The two-month period for filing an appeal brief under 37 CFR 41.37(accompanied by the fee required by 37 CFR 41.20(b)(2), runs from the date of this decision.

This application is being referred to Technology Center Art Unit 3616.

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

Andrea Smith
Petitions Office
Office of Petitions

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MEDTRONIC, INC.
710 MEDTRONIC PARK
MINNEAPOLIS MN 55432-9924

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OCT 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Sharma, et al.	:	
Application No. 10/308,302	:	ON PETITION
Filed: December 3, 2002	:	
Attorney Docket No. P9725.00	:	

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

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed April 14, 2006. Accordingly, this application became abandoned on July 15, 2006. A Notice of Abandonment was mailed on August 16, 2006.

Applicants have submitted a proper reply in the form of the issue fee, the publication fee and a completed PTOL-85, an acceptable statement of the unintentional nature of the delay in responding to the April 14, 2006 Notice of Allowance and Fee(s) Due, and the petition fee.

The petition is **granted**.

This application is being forwarded to Publishing Division for processing into a patent.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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

FAX RECEIVED
AUG 04 2005
OFFICE OF PETITIONS

In re Application of	:	
Hughes, et al.	:	DECISION
Application No. 10/308,304	:	
Filed: December 3, 2002	:	
Atty. Dkt. No.: 655.00968	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705" filed March 11, 2005.

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

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due is 103 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicants request that the Determination of Patent Term Adjustment be corrected from 0 days, as indicated on the Determination of Patent Term Adjustment mailed December 13, 2004, to an adjustment of 133 days.

In accordance with 37 CFR 1.702(a)(2), an adjustment of 129 days can be attributed to the Office for failure to timely respond to the reply submitted by applicants on April 6, 2004. The delay began August 7, 2004, the day after the date that is four months after the supplemental reply was filed, and ended December 13, 2004, the date the Notice of Allowance was mailed.

The adjustment of 129 days, however must be reduced at total of 26 days for applicants' failure to engage in reasonable efforts to conclude prosecution. A reduction of three days under 37 CFR 1.704(b) can be attributed to applicants for failure to respond to the non-final Office action mailed December 5, 2003 within three months. The delay began March 6, 2004, the day after the date that is three months after the date of mailing of non-final

Office action, and ended March 8, 2004, the date a reply was filed.

The adjustment of 129 days is further reduced 23 days in accordance with 37 CFR 1.704(c)(8) in connection with the supplemental response submitted April 6, 2004. The reduction began March 9, 2004, the day after the date the initial reply was filed, and ended April 6, 2004, the date the supplemental reply was submitted.

For reasons unknown, applicants submitted a duplicate of the papers submitted March 8, 2004 and April 6, 2004 on November 17, 2004. This submission routinely triggered a 37 CFR 1.704(b) reduction. This errant reduction has since been corrected as indicated in the enclosed PAIR calculation.

Accordingly, the period of patent term adjustment as of the date of mailing of the Notice of Allowance is 103 days.

The Office hereby acknowledges receipt of the required application fee of $200.00.

This application is being forwarded to the Publications Division for issuance of a patent.

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

Karin A Ferriter
for

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

Enclosure: Copy of Adjustment PAIR Calculation

#9

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Paper No. 6

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

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AUG 0 8 2003

OFFICE OF PETITIONS

In re Application of
Liu, Brewer & Liang
Application No. 10/308,306
Filed: December 2, 2002
Attorney Docket No. 5388P013
For: LASER FUSION BASED WDM COUPLER

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed July 21, 2003 (certificate of mailing date July 17, 2003).

The petition is granted.

Petitioners have shown that the non-signing inventor, Frank Liang, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Secretary Janece Shannon establishes that the inventor was mailed the application papers, including the specification, claims and drawings on two occasions and the statement of facts of Attorney Robert B. O'Rourke establishes that on July 9, 2003 Frank Liang confirmed that he had received both mailings and refused to execute and/or return the declarations. 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

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FRANK LIANG
10108 RANDY LANE
CUPERTINO CA 95014

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AUG 0 8 2003
OFFICE OF PETITIONS

In re Application of
Liu, Brewer & Liang
Application No. 10/308,306
Filed: December 2, 2002
Attorney Docket No. 5388P013
For: LASER FUSION BASED WDM COUPLER

LETTER

Dear Mr. Liang:

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

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

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES CA 90025

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Paper No. 7

MAIL

APR - 2 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

GEORGE A LEONE, SR
2150 128TH AVENUE, NW
MINNEAPOLIS MN 55448

In re Application of:	:	
Johnson et al.	:	
Application No. 10/308,309	:	
Filed: December 3, 2002	:	DECISION ON PETITION
For: OPTICAL TOMOGRAPHY OF SMALL	:	TO MAKE SPECIAL
OBJECTS USING PARALLEL RAY	:	
ILLUMINATION AND POST-SPECIMEN	:	
OPTICAL MAGNIFICATION		

This is a decision on the petition, filed on September 25, 2003, 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

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Ronald E. Larson
McAndrews, Held & Malloy, Ltd.
34th Floor
500 W. Madison Street
Chicago, IL 60661

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JUL 22 2005
OFFICE OF PETITIONS

In re Application of :
Steven A. Weiss :
Application No. 10/308,314 :
Filed: December 2, 2002 : ON PETITION
Title of Invention: :
CASHLESS GAMING SYSTEM :
APPARATUS AND METHOD :

This is a decision on the Petition to Withdraw the Holding of Abandonment Under 37 CFr 1.18[1] or Alternatively to Revive Under 37 CFR 1.137(b), filed October 15, 2004. The delay in treating this petition is regretted.

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

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed January 29, 2004. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on April 30, 2004. A Notice of Abandonment was mailed on September 8, 2004.

Applicant's Assertion

Applicant asserts that a timely reply to the non-final Office action was filed on June 29, 2004. In support of this assertion, Applicant provides, *inter alia*, copies of an Amendment and a two (2) month extension of time, both of which include a Certificate of Mailing dated June 29, 2004. A review of the Amendment and two (2) month extension of time reveal that applicant filed the amendment and two (2) month extension of time using application serial number 10/308,341, instead of the presently assigned application serial number of 10/308,314.

A review of Application serial number 10/308,341, reveals that an Amendment and two (2) month extension of time were received in the Office and placed in that application on July 2, 2004. The same Amendment and two (2) month extension of time has been filed in this petition. A further review of the amendment and two (2) month extension of time reveals that the amendment and two (2) month extension of time included the correct inventor, filing date, attorney docket number, Group Art Unit and Examiner (for application serial number 10/308,314). Apparently the Amendment and two (2) month extension of time were filed in this Office on June 29, 2004, and due to errors on the part of applicant and this Office, was inadvertently placed in application serial number 10/308,341. Accordingly, the petition is granted.

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

A refund of the petition fees has been credited to Applicant's deposit account 13-0017.

The application file is being referred to Technology Center Art Unit 3714 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
Office of Petitions

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OFFICE OF PETITIONS

IP GROUP OF DLA PIPER LLP (US)
ONE LIBERTY PLACE
1650 MARKET ST, SUITE 4900
PHILADELPHIA PA 19103

In re Patent No. 6,780,545 :
Issue Date: August 24, 2004 : ON PETITION
Application No.: 10/308,319 :
Filed: December 3, 2002 :
Attorney Docket No.: 1503-02 :

This is a decision on the petition filed August 25, 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 patent issued August 24, 2004. The grace period for paying the 3.5-year maintenance fee expired at midnight August 24, 2008. Therefore, since the petition was first filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

Accordingly, the maintenance fee of 980.00 along with the surcharge of $1640.00 will be charged to deposit account 50-2719 .

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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ONE HEALTH PLAZA 104/3
EAST HANOVER NJ 07936-1080

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OFFICE OF PETITIONS

In re Application of	:	
Gerd Ascher, et al.	:	
Application No. 10/308,331	:	DECISION ON PETITION
Filed: December 3, 2002	:	TO WITHDRAW
Attorney Docket No. 970-9827D	:	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 **NOT APPROVED**.

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

The request cannot be approved because there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Notice of Allowance mailed on May 10, 2007.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: D. PETER HOCHBERG CO., LPA
1940 EAST SIXTH STREET
SIXTH FLOOR
CLEVELAND, OH 44114-2294

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JUL 30 2007

OFFICE OF PETITIONS

NOVARTIS
CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 104/3
EAST HANOVER, NJ 07936-1080

In re Application of	:	
Gerd Ascher, et al.	:	
Application No. 10/308,331	:	DECISION ON PETITION
Filed: December 3, 2002	:	TO WITHDRAW
Attorney Docket No. 970-9827D	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed May 16, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "file transfer", does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: D. PETER HOCHBERG CO., LPA
1940 EAST 6TH STREET
6TH FLOR
CLEVELAND, OH 44114-2294

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JJGJr: 07-05

Paper No: __

LAWRENCE M. JARVIS
MCANDREWS, HELD
& MALLOY, LTD.
34TH FLOOR
500 W. MADISON STREET
CHICAGO IL 60661

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OFFICE OF PETITIONS

In re Application of		
Weiss	:	
Application No. 10/308,341	:	ON PETITION
Filed: 2 December, 2002	:	
Attorney Docket No.: 13500US03	:	

This is a decision on the request filed on 29 November, 2004, under 37 C.F.R. §1.182 and also properly considered under 37 C.F.R. §1.181 to withdraw the Terminal Disclaimer filed on 2 July, 2004, from the instant application.

The Office regrets the delay in addressing this matter, however, the petition was received into the Office of Petitions only at this writing.

The petition under 37 C.F.R. §1.181 and §1.182 is **GRANTED**.

BACKGROUND

It appears that:

- Petitioner is prosecuting on behalf of the Applicant two (2) related applications, to wit:

–the instant application, Application No. 10/308,341; and

–a related application, Application No. 10/308,314;

- on 2 July, 2004, Petitioner filed, *inter alia*, an amendment in response to an Office action, and at that time, Petitioner indicates, he filed into this application a Terminal Disclaimer (entitled "Terminal Disclaimer to Obviate a Double Patenting Rejection (37 C.F.R. [§]1.321 (c))) with fee authorization, that was intended instead for Application No. 10/308,314;

- Petitioner now:

  –indicates his error;

  –has filed a Terminal Disclaimer into Application No. 10/308,314--where, he alleges, it properly should be lodged;

  –and seeks to have the Terminal Disclaimer withdrawn from the instant application.

The Examiner has indicated that she has no opposition (upon inquiry from the Office of Petitions) to the request to withdraw the terminal disclaimer previously and erroneously designated by Petitioner as associated with the instant application.

Accordingly, the petition as considered under 37 C.F.R. §1.181 and §1.182 to withdraw the terminal disclaimer previously and erroneously designated by Petitioner with this application is **granted**.

The instant file is being released to the Examiner in Technology Center 3700.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

LOW AND LOW
2316 S. EADS STREET
ARLINGTON, VA 22202

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MAY 1 3 2003

OFFICE OF PETITIONS

In re Application of
Jerry Douglas Burkett
Application No. 10/308,363
Filed: December 3, 2002
Attorney Docket No. JDB2

DECISION DISMISSING PETITION

This is a decision on the petition filed March 24, 2003, to accord the above-identified application a filing date of December 3, 2002, with figure 8 considered part of the original application disclosure. This petition is properly treated under § 1.53(e)(2)[1].

Application papers in the above-identified application were filed on December 3, 2002. However, on January 24, 2003, the Initial Patent Examination Division mailed applicant a "Notice of Omitted Item(s) in a Nonprovisional Application." Applicant was thereby notified that the application papers had been accorded a filing date; however, figure 8 described in the specification appeared to have been omitted from the application.

In response, applicant timely filed the instant petition. Petitioner asserts that figure 8 was submitted by facsimile to the Office. Petitioner further states that it is believed that as-received in the Office, there may have been a error in the fax transmission and reception of sheet 4 of the drawings, which included Figs. 5-8 on the same sheet, whereby evidently the PTO did not receive the bottom of drawing sheet 4 containing Fig. 8, but did not receive Figs. 5-7 on that sheet. Petitioner submits a copy of the referenced drawing sheet. Petitioner maintains that sheet 4 of drawings with Figs. 5-8 was transmitted at filing. For whatever reason, Fig. 8 only on the transmitted page was not received. Further, petitioner states that the application properly refers to parent Provisional Application No. 60/338,632, and Fig. 8 is and was present in the PTO in applicant's provisional application at the time of filing of the subject utility application.

Petitioner further submits, in the event the petition is denied, a preliminary amendment deleting reference to Fig. 8.

---

[1] §1.53(e) Failure to meet filing date requirements.
... (2) Any request for review of ... a notification that the original application papers lack a portion of the specification or drawing(s), must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in §1.17(h). In the absence of a timely (§1.181(f)) petition pursuant to this paragraph, the filing date of an application in which the applicant was notified of a filing error pursuant to paragraph (e)(1) of this section will be the date the filing error is corrected.

Petitioner has not shown that figure 8 was present in the application on filing. A review of the application file reveals that the papers considered received on December 3, 2002, include 4 sheets of drawings, containing figures 1-7. There is no figure labeled figure 8. There is no unlabeled figure. Sheet 4 contains figures 4-7, not figures 5-8 (as shown on the drawing sheet submitted with the preliminary amendment).

The application file is the official record of the papers filed in an application. Papers not present in the application file are not considered present in the application absent convincing evidence to the contrary (e.g., a postcard receipt under MPEP § 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office.) Petitioner has not presented convincing evidence that figure 8 was filed in the application, but misplaced by the Office.

Moreover, petitioner's argument, regarding any filing of the drawings by facsimile, is not well-taken. First, of all, the drawing sheets were received in the Office by way of mailing pursuant to 37 CFR § 1.10. Secondly, drawings submitted as part of the original application disclosure can not be filed by facsimile transmission. See 37 CFR §§ 1.6(d) and 1.8.

Accordingly, the petition is **DISMISSED**.

Any request for reconsideration must be filed with **TWO (2) MONTHS** from the mailing date of this decision. This period is not extendable under 37 CFR 1.136(a). See § 1.181(f).

In regards to any incorporation by reference, it is noted that the application has been reviewed and there is no proper incorporation-by-reference statement present in the application-as-filed. There is a reference to the provisional application in the specification. However, a mere reference to an application is not an incorporation-by-reference. See MPEP 608.01.

The application file is being forwarded to the Office of Initial Patent Examination (OIPE) for completion of pre-examination processing with a filing date of December 3, 2002, using the application papers received in the Office on that date (**without** figure 8).

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to Petitions Attorney Nancy Johnson at 703-305-0309.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-145

MAILED

JUL 17 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Jerry D Burkett
Burkett Marine Supply
211 El Dorado Drive
Richmond, VA 23229

In re application of
Jerry Douglas Burkett
Application No. 10/308,363
Filed: December 03, 2002
For: PLANING POWER BOAT

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on March 03, 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 since John Glenn was never formally given power in this application. Furthermore, the withdrawal request was not signed by Mr. Glen but rather by the inventor Jerry Burkett which is also improper. However, the issue is moot because the power of attorney has already been changed as per the Notice regarding Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address mailed May 12, 2004.

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

SNM/pav: 7/14/04

cc: John F.C. Glenn
LOW AND LOW
2316 S. Eads Street
Arlington, VA 22202

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Alexandria, VA 22313-1450
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JERRY D. BURKETT
BURKETT MARINE SUPPLY
211 EL DORADO DRIVE
RICHMOND, VA 23229

COPY MAILED

MAR 2 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Jerry Douglas Burkett	:	
Application No. 10/308,363	:	DECISION GRANTING PETITION
Filed: December 3, 2002	:	UNDER 37 CFR 1.137(b)
For: PLANING POWER BOAT	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 23, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Office action mailed March 12, 2004, which set a period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 13, 2004. A Notice of Abandonment was mailed on October 21, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action of March 12, 2004 is accepted as having been unintentionally delayed.

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

The application file is being forwarded to Technology Center AU 3617 for appropriate action on the reply received November 23, 2004.

Frances Hicks

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 20, 2005

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No.: 6,821,984

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:

The third correction Column 119 should be column 120. lines 31-32.

R Desai

[signature]
SPE

1625
Art Unit

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO : 6,821,984 B2

DATED : November 23, 2004

INVENTOR(S) : David G. Loughhead, et al

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

IN THE CLAIMS:

Column 118, line 23, "NR^aR^b; R^1 is hydrogen, halogen, cycloalkenyl or aryl," should read -- NR^aR^b; or R^1 is hydrogen, halogen, cycloalkenyl or aryl, --;

Column 119, line 14, "$C_{3-6}C_{1-3}$alkylidenyl," should be -- aryl-C_{1-3}alkylidenyl, --;

Column ~~119~~ 120, lines 31-32, "where each of said aryl or heteroaryl group is optionally substituted" should read -- where said aryl group is optionally substituted --;

Column 120, line 40, "where R^a and R^b are each independently" should read -- where $R^{a'}$ and $R^{b'}$ are each independently --;

Column 120, line 46, "R^a is selected from the group" should read -- R^a is selected from the group --;

Column 121, line 2, "wherein each of said aryl or group" should read -- wherein each of said aryl group --;

Column 121, line 18, "where each of said aryl" should read -- where each said aryl --;

Column 122, line27, "arylalkyl wherein each of said" should read -- arylalkyl wherein each said --;

Column 122, line 55, "with a CRF receptor antagonist," should read -- with a CRF antagonist, --.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

ROCHE PALO ALTO LLC
Patent Law Dept. M/S A2-250
3432 Hillview Avenue
Palo Alto, CA 94304

No. 6,821,984

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. Doc#131367v1

AUG 2 5 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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Date: 06/27/08

Patent No. : 7365354 B2
Ser. No. : 10/308,399
Inventor(s) : MAIMON, JON
Issued : 04/29/08
Title : **PROGRAMMABLE RESISTANCE MEMORY ELEMENT AND METHOD FOR MAKING SAME**
Docket No. : **2024.37**

Re: Request for Certificate of Correction

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

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

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

By mail: Mail Stop PETITIONS

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

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

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

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

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703)-305-5358 or (703) 308-9390 #112

ENERGY CONVERSION DEVICES, INC.
2956 WATERVIEW DRIVE
ROCHESTER HILLS MI 48309

LMN

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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

Mail Date: 04/21/2010

Applicant	: Hugh S. Njemanze	: DECISION ON REQUEST FOR
Patent Number	: 7650638	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/308,417	: 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 **946** 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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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

Mail Date: 04/21/2010

Applicant	: Hugh S. Njemanze	: DECISION ON REQUEST FOR
Patent Number	: 7607169	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/308,418	: 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 **1934** 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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SECOND SIGHT, LLC
P.O. BOX 905
SANTA CLARITA, CA 91380-9005

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OFFICE OF PETITIONS

In re Application of	:	
Dai et al.	:	
Application No. 10/308,438	:	ON PETITION
Filed: December 2, 2002	:	
Attorney Docket No. S171-USA	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 5, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

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

---

[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).

This matter is being referred to Technology Center 2800 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

Cc:

SECOND SIGHT MEDICAL PRODUCTS, INC.
12744 SAN FERNANDO ROAD
BUILDING 3
SYLMAR, CA 91342

UNITED STATES PATENT AND TRADEMARK OFFICE

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F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY, NY 11797

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MAR 24 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Tae-Hyoung Kim et al :
Application No. 10/308,453 :
Filed: December 3, 2002 :
Attorney Docket No. 8836-158 (ID11143-US) :

This is a decision on the petition under 37 CFR 1.137(b), filed March 14, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Office action mailed February 25, 2004, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 26, 2004.

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

The matter is being forwarded to Technology Center AU 2816 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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

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

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MAY 19 2003

OFFICE OF PETITIONS

In re Application of :
D'Orto, et al. :
Application No. 10/308,459 :
Filed: December 3, 2002 :
Attorney Docket No.: 100203220-1 :
For: CACHE MANAGEMENT SYSTEM AND METHOD :

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.

The petition is **GRANTED**.

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

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

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

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

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

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

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WASHINGTON, D.C. 20231
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PETER PETERSON
118 BUCKINGHAM AVENUE
TRENTON, NJ 08618

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MAY 19 2003

OFFICE OF PETITIONS

In re Application of
D'Orto, et al.
Application No. 10/308,459
Filed: December 3, 2002
Attorney Docket No.: 100203220-1
For: CACHE MANAGEMENT SYSTEM AND METHOD

LETTER

Dear Sir:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

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ROHM AND HAAS COMPANY
PATENT DEPARTMENT
100 INDEPENDENCE MALL WEST
PHILADELPHIA PA 19106-2399

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JUN 09 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of
Vandersal et al.
Application No.10/308,477
Filed: December 3, 2002
Attorney Docket Number: A01316

Title of Invention: METAL-DOPED SULFONATED ION EXCHANGE RESIN CATALYSTS

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

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed July 2, 2004. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on October 3, 2004. A Notice of Abandonment was mailed on January 31, 2005

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

The RCE submitted in error with the instant petition has not been entered pursuant to counsel's request on March 10, 2005.

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

Telephone inquiries 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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No.

WYETH
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON, NJ 07940

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MAR 07 2006

OFFICE OF PETITIONS

In re Application of	:	
Ali et al.	:	LETTER REGARDING
Application No. 10/308,480	:	PATENT TERM ADJUSTMENT
Filed: December 3, 2002	:	
Atty Docket No. AM100771	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN THE NOTICE OF ALLOWANCE (37 C.F.R. 1.705(d)" filed October 31, 2005. Applicants disclose that that this case should only be entitled to four hundred twenty-three (423) days of patent term adjustment.

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 four hundred twenty-three **(423)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 2, 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 628 days. Applicants state that the entire 205-day period for Office delay interferes with the 423-day period for Office delay, and thus, this case should only be entitled to a total of 423 days of PTA.

Applicants are correct. 37 C.F.R. § 1.703(f) provides, in pertinent part, 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. The term of a patent entitled to adjustment under § 1.702 and this section shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of this section, to the extent that such periods are not overlapping, less the sum of the periods calculated under § 1.704.

In this instance, as stated by applicants, the periods of delay pursuant to § 1.702(a)(1) and § 1.702(c) overlap.

In view thereof, the patent term adjustment at the time of mailing of the notice of allowance is four hundred twenty-three (423) days.

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The Publishing Division has been advised of this decision. The application is, thereby, forwarded to the Publishing Division for processing into a patent. The patent will include any additional patent term accrued for Office delay in issuing the patent after the issue fee had been paid and all outstanding requirements had been met.

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

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SEP 01 2006

OFFICE OF PETITIONS

In re Application of	:	
Lynch, et al.	:	
Application No. 10/308,486	:	ON PETITION
Filed: December 3, 2002	:	
Attorney Docket No. 9312-2	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed March 30, 2006.

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

The above-identified application became abandoned when applicant filed a petition for express abandonment under 37 CFR 1.138 on March 6, 2006. The Office mailed a Notice of Abandonment on March 13, 2006.

With the instant petition, applicant paid the petition fee and made the proper statement of unintentional delay.

The petition fee of $1,500 has been charged to Deposit Account No. 50-0220, as authorized.

The application is being forwarded to Group Art Unit 2664 for examination.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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ERIC P. MIRABEL
3783 DARCUS
HOUSTON, TX 77005

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JUL 13 2006
OFFICE OF PETITIONS

In re Application of :
West, et al. :
Application No. 10/308,512 : ON PETITION
Filed: December 3, 2002 :
Attorney Docket No. NAN-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 16, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed August 29, 2005. Accordingly, this application became abandoned on November 30, 2005. A Notice of Abandonment was mailed on June 15, 2006.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

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.

There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted.

A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The file is being forwarded to Technology Center 1600 for review of the amendment filed March 24, 2006, *in due course*.

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

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
Office of the Deputy Commissioner
for Patent Examination Policy

cc.
ERIC P. MIRABEL
BIOARRAY SOLUTIONS, LTD.
35 TECHNOLOGY DRIVE
WARREN, NJ 07059

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COMMISSIONER FOR PATENTS
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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JUN 29 2006

OFFICE OF PETITIONS

In re Application of :
Bodnar :
Application No. 10/308,595 :
Filed: December 2, 2002 :
Attorney Docket No. LS/0034.00 :
For: SYSTEM AND METHODOLOGY FOR PROVIDING A MOBILE DEVICE WITH A NETWORK-BASED INTELLIGENT RESOURCE FORK

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed January 19, 2006 (certificate of mailing date January 13, 2006), requesting that the Office withdraw the holding of abandonment of the above-identified application.

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

This application was held abandoned for failure to properly respond to the final Office action of May 12, 2005, which set an extendable three month period for reply. Applicant submitted an amendment after final on August 8, 2005 (certificate of mailing date August 5, 2005). The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the January 6, 2006 Advisory action. The Office contended this application became abandoned on August 13, 2005. The filing of the present petition precedes the mailing of A Notice of Abandonment.

The examiner of record vacated the January 6, 2006 Advisory action and accepted the amendment after final filed August 8, 2005 (certificate of mailing date August 5, 2005) in the February 17, 2006 Notice of Allowability.

Therefore, the petition under 37 CFR 1.181 is dismissed as moot. No petition fee has been or will be charged in connection with this matter.

After the mailing of this decision, the application file will be forwarded to Publications Division for processing into a patent.

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

Shirene Willis Brantley

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

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OFFICE OF PETITIONS

BROOKS KUSHMAN
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD MI 48075

In re Application of	:	
Mark Manuel et al	:	
Application No. 10/308,602	:	ON PETITION
Filed: December 2, 2002	:	
Attorney Docket No. FCTL 0011 PUS	:	

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

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

The examiner of Technology Center AU 1722 will consider the request for continued examination under 37 CFR 1.114.

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

---

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

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United States Patent and Trademark Office
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MICHAEL BUCHENHORNER, P.A.
8540 SW 83 STREET
SUITE 100
MIAMI FL 33143

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DEC 1 1 2007

OFFICE OF PETITIONS

In re Application of	:	
BOIVIE et al.	:	
Application No. 10/308,605	:	DECISION ON PETITION
Filed: 12/04/2002	:	
Attorney Docket No. YOR92002-0104 US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 4, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed on April 21, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 22, 2006. A Notice of Abandonment was mailed on December 5, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2136 for appropriate action by the Examiner in the normal course of business on the reply received October 4, 2007.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MICHAEL BUCHENHORNER, P.A.
8540 SW 83 STREET
SUITE 100
MIAMI, FL 33143

Mail Date: 04/20/2010

Applicant	: Richard Harold Boivie	: DECISION ON REQUEST FOR
Patent Number	: 7584352	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/308,605	: OF WYETH
Filed	: 12/04/2002	:
		:

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
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Richard R. Michaud
The Michaud-Duffy Group LLP
306 Industrial Park Road
Suite 206
Middletown CT 06457

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SEP 13 2006
OFFICE OF PETITIONS

In re Application of	:
Lane	:
Application No. 10/308,647	: LETTER AND NOTICE OF
Filed: December 3, 2002	: NON ENTRY OF THIRD PARTY
PG Pub:06/26/2003 US20030116506A1	: PAPERS

This application is before this office due to several documents filed by or on behalf of the named inventor on March 16, 2006, including a "petition" styled as being filed under either 37 CFR 1.313 to withdraw this application from issue, or in the alternative, requesting extraordinary relief under 37 CFR 1.182 or § 1.183, for consideration of the accompanying protest and IDS.

The petition to withdraw this application from issue under 37 CFR 1.313(b) is **dismissed.**

The alternative request for extraordinary relief under 37 CFR §§ 1.182 or 1.183 is **dismissed.**

Petitioner, the named inventor, notes that the record assignee of the entire interest has intervened herein to the exclusion of the named inventor as permitted by 37 CFR 3.73(b) and MPEP 324. It is further acknowledged that the named inventor is currently employed by a competitor of the aforementioned assignee-intervenor. Petitioner now seeks, by way of the instant petition and IDS, to bring information to the attention of the USPTO so as to comply with 37 CFR 1.56, as he recounts his efforts to send the same or similar information to current counsel for citation, in turn, to the USPTO with, according to petitioner, less than satisfactory results.

The regulations pertaining to the submission of an information disclosure statement (IDS) do not require that an IDS be filed, but rather, set forth the circumstances and conditions under which the Office will consider information promptly brought to its attention by applicant(s). Further, these circumstances and conditions are linked to the stage of prosecution at the time of submission of the IDS, as it is necessary for the Patent and Trademark Office (Office) to balance its need and desire to consider all information relevant to an application with its need for an efficient operation and its capability to consider information at various stages in the prosecution of an application. The quid pro quo for USPTO consideration of an IDS after close of prosecution is, however, that

applicant diligently present the information to the USPTO, a circumstance that did not happen here.

It is noted that petitioner admits long having monitored the prosecution of this file, but inexplicably only now brings the information directly to the USPTO. Petitioner does not explain why the information was not, or could not have been, filed in a more timely manner, and directly with the USPTO in the first instance. Petitioner further overlooks that as prosecution is closed by the mailing of the Notice of Allowance, a statement under 37 C FR 1.97(e)(1) or (e)(2) is required by the party citing the information, attesting that such was not known to any person having the duty to disclose for more than 3 months prior to its citation. Inspection of the allegations made in the petition indicates that petitioner has himself been aware of the information for a far longer period of time.

Here, it is due to the delay of applicant in presenting the information directly to the USPTO, that the requisite statement under 37 CFR 1.97(e) cannot be made by the very person having knowledge of the information. It is thus clear that petitioner is attempting in the guise of a petition filed under 37 CFR 1.313, or the extraordinary relief provisions of §§ 1.182 or 1.183, to circumvent the requirements of 37 CFR 1.97(d), which simply will not be permitted.

37 CFR 1.313 (b) applies to those instances where the USPTO, after payment of the issue fee, and acting on its *own volition*, seeks to withdraw an application from issue. The filing of a paper, as here, prompting or suggesting that the Office take action of its own volition or *sua sponte*, is a contradiction in terms. Similarly, section 1.313(b) is inapposite as the instant petition was filed when no issue fee had been paid.

Here, since the assignee has intervened to the exclusion of the named inventor, petitioner, notwithstanding that he is the named inventor, can also be considered as a third party to this application. As such it is also possible to consider the documents for compliance with the provisions of 37 CFR 1.99 and 1.291, which speak to third party submissions of information to the USPTO.

Since this application was the subject of a pre grant publication (PG Pub)prior to the filing of the above-noted documents, the provisions of the statute (35 U.S.C. § 122(c)) the applicable rules (*e.g.*, 37 CFR §§ 1.99, 1.291, and 1.292) and procedures(e.g., MPEP §§ 1134.01, 1901.06) now place stringent limitations on the treatment, or even on the retention *vel non* in this file, of any third party submissions that protest, oppose the grant of, or seek to have other information entered and considered in, this application. See also *Third Party Attempts to Protest or Otherwise Oppose the Grant of a Published Application*, 1269 *Off. Gaz. Pat. Office* 179 (April 22, 2003)

37 CFR 1.99 requires, in pertinent part that:

(c) The submission under this section must be served upon the

applicant in accordance with § 1.248.

(d) A submission under this section shall not include any explanation of the patents or publications, or any other information. The Office will not enter such explanation or information if included in a submission under this section. A submission under this section is also limited to ten total patents or publications.

(e) A submission under this section must be filed within two months from the date of publication of the application (§ 1.215(a)) or prior to the mailing of a notice of allowance (§ 1.311), whichever is earlier. Any submission under this section not filed within this period is permitted only when the patents or publications could not have been submitted to the Office earlier, and must also be accompanied by the processing fee set forth in § 1.17(i). **A submission by a member of the public to a pending published application that does not comply with the requirements of this section will not be entered** (emphasis added).

As the documents consume 59 pages in all, they obviously contain too much information for compliance with 37 CFR 1.99 and must be removed from this file. Furthermore as the submission is long subsequent to both the pre grant publication and the mailing of the Notice of Allowance, it is also time barred.

Likewise, even treating the documents in question as a protest, 37 CFR 1.291(b) does not permit retention of the submission/protest in this file record:

(b) The protest will be entered into the record of the application if, in addition to complying with paragraph (c) of this section, the protest has been served upon the applicant in accordance with § 1.248, or filed with the Office in duplicate in the event service is not possible; and, except for paragraph (b)(1) of this section, the protest was filed prior to the date the application was published under § 1.211, or a notice of allowance under § 1.311 was mailed, whichever occurs first:

(1) If a protest is accompanied by the written consent of the applicant, the protest will be considered if the protest is matched with the application in time to permit review during prosecution.

(2) A statement must accompany a protest that it is the first protest submitted in the application by the real party in interest who is submitting the protest; or the protest must comply with paragraph (c)(5) of this section. This section does not apply to the first protest filed in an application.

Here, the protest was filed subsequent to both publication and the mailing of the Notice of Allowance and is thus time barred.

As to the request in the third party petition for extraordinary relief under 37 CFR 1.182 or § 1.183, that is likewise unavailing. First, petitioner failed to show that as a third party, he may properly invoke 37 CFR 1.182 or 1.1183 *vis-a-vis* this application. A mere assertion of a right to have the Office act in accordance with the statutes and regulations does not confer standing upon a third party. The Boeing Company v. Commissioner of Patents and Trademarks, 853 F.2d 878, 7 USPQ2d 1487 (Fed. Cir. 1988). Further, a third party does not have standing to challenge Office decisions made ex parte. See, e.g., Godtfredsen v. Banner, 503 F.Supp 642, 647, 207 USPQ 202, 207 (D.D.C. 1980), Syntex v. United States Patent and Trademark Office, 882 F.2d 1570, 1574-1575, 11 USPQ2d 1866, 1870 (Fed. Cir. 1989), Hitachi Metals Ltd. v. Quigg, 776 F.Supp 3, 20 USPQ2d 1920 (Fed. Cir. 1989). There is nothing in the patent statutes which gives rise to a right in nonapplicants to object to the way in which patent applications of others are treated by the Patent and Trademark Office. The Court of Appeals for the Federal Circuit (Federal Circuit)has refused to accord standing to third parties challenging Office actions (outside of the an interference) during the prosecution of an application for patent. See Animal Legal Defense Fund v. Quigg, 932 F.2d 920, 930, 18 USPQ2d 1677, 1685 ("We find nothing in the law which gives rise to a right in nonapplicants to object to the way in which patent applications of others are prosecuted. A third party has no right to intervene in the prosecution of a particular patent application to prevent the issuance of an allegedly invalid patent"). The Office has promulgated regulations permitting third parties to file protests and petitions for public use proceedings in applications that have not been published under 35 U.S.C. § 122(b) and 37 CFR 1.211 et seq. (37 CFR 1.291 and 1.292) and to file prior art submissions in applications that have been published under 35 U.S.C. § 122(b) and 37 CFR 1.211 et seq. (37 CFR 1.99). The rules of practice, however, do not permit a third party to petition the Office for extraordinary relief. That the Office does permit a third party to file certain papers in an application does not afford a third party with standing to challenge Office decisions in that application. Cf. Boeing Co. v. Commissioner of Patents and Trademarks, 853 F.2d 878, 881, 7 USPQ2d 1487, 1489 (Fed. Cir. 1988)(that a third party is permitted to participate in district court action concerning a reexamination proceeding does not imply that the third party has standing to appeal a district court decision favorable to patent owner).

Second, assuming for the sake of argument that a third party may properly invoke 37 CFR 1.182 or 1.183 such request must be refused, as the requested relief, much less retention of the request in this file, is contrary to 37 CFR 1.99 and 1.291.

Accordingly, to the extent that the third party petition is entitled to treatment, it is dismissed.

Given the lack of compliance with either of the two regulations (37 CFR §§ 1.99 and 1.291) governing third party submissions of information in a published application or allowed application, the documents submitted by the third party cannot be permitted to remain in the file. As service on applicant was indicated on assignee-

intervenor, it is not necessary for the USPTO to send a copy to the assignee-intervenor. This communication is also the notice of non entry. See MPEP 1901.06 subsection V(a)(2). The documents filed by the third party are being closed to public inspection which is the IFW equivalent of expungement from a paper file.

Telephone inquiries related to this decision may be addressed to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070131

DATE : January 31, 2007

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No.: 7,038,078

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:

Thomas McKenzie

SPE: Thomas McKenzie, Ph.D. **Art Unit** 1625

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,038,078 B2
APPLICATION NO. : 10/308672
DATED : May 2, 2006
INVENTOR(S) : Jane V. Aldrich et al.

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

Column 16 line 20,
In Table 1, delete CAS Number 161852-53-5 for "Acetic Acid, [2-(2-tertbutyloxycarbonyl-aminoethoxy)ethoxy]- (6)" and in its place insert CAS Number 108466-89-3.

Signed and Sealed this

Twenty-fifth Day of July, 2006

Jon W. Dudas

JON W. DUDAS
Director of the United States Patent and Trademark Office

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Commissioner for Patents
United States Patent and Trademark Office
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DELIO & PETERSON
121 WHITNEY AVENUE
NEW HAVEN CT 06510

In re Application of
Evan E. Koslow :
Application No. 10/308,695 : ON PETITION
Filed: December 3, 2002 :
Attorney Docket No. KXIN100011000 :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Final Office Action mailed May 18, 2005. A shortened statutory period of three months was set for replying to the Final Office Action. Petitioners were notified in an advisory action mailed January 9, 2006 that a response filed November 21, 2005 did not place the application in condition for allowance. Thus, the application became abandoned and accordingly, a Notice of Abandonment was mailed April 14, 2006.

In response to the Final Office Action mailed May 18, 2005, petitioner has submitted a

---

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

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

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

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

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

Request for Continued Examination (RCE) and requests that the amendment previously submitted on November 21, 2005 be considered as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 1723 for processing of the RCE and submission.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAN 15 2003

Paper No. 4

In re Application of :
His-Ming Cheng et al. :
Serial No. 10/308,699 : DECISION ON PETITION
Filed: December 3, 2002 : TO MAKE SPECIAL
For: MESH CONTAINER, SYSTEM USING:
MESH CONTAINERS AND METHOD:
FOR MAKING MESH CONTAINERS :

Applicant's petition, filed December 3, 2002, 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

Perry J. Saidman, Esq.
Saidman Design Law Group
1110 Bonifant Street, Suite 510
Silver Spring, MD 20910

United States
Patent And
Trademark Office

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

PETITION DECISION

09/24/04

James C. Simmons
P.O. Box 980
Valley Forge, PA 19482-0980

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/308709 received on 09/13/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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Paper No. 4

CROMPTON, SEAGER & TUFTE, LLC
331 Second Avenue South, Suite 895
Minneapolis, Minnesota 55401-2246

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MAY 21 2003

OFFICE OF PETITIONS

In re Application of :
Thomas Eidenschink :
Application No. 10/308,720 :
Filed: December 3, 2002 :
Attorney Docket No. 1001.1607101 :

DECISION GRANTING PETITION

This is a decision on the petition filed February 6, 2003, requesting that the above-identified application retain the filing date of December 3, 2002. The petition is being treated as a petition under 37 CFR 1.181 to correct the files of the above-identified application.

The petition is **granted**.

The application was filed on December 3, 2002. On January 10, 2003, the Office of Initial Patent Examination mailed a " Notice of Omitted Items in a Nonprovisional Application" (the "Notice") stating that Figures 1A and 8, as described in the specification, appeared to have been omitted from the application.

Petitioner responded with the instant petition wherein petitioner argued that Figures 1A and 8 described in the specification were included with the application papers originally filed on December 3, 2002, and were received by the Office as evidenced by the return-receipt postcard. In support thereof, petitioner provided a copy of the a return-receipt postcard acknowledging receipt of eight (8) sheets of drawings filed on December 3, 2002.

A review of Office records reveals that the drawings from the above-identified application were inadvertently placed in application serial number 10/308,726.

It is obvious that the application was complete on the date of deposit. Since the drawings were in fact present in the Office on December 3, 2002, the application will retain the currently accorded filing date of December 3, 2002, including the eight (8) sheets of drawings containing Figures 1, 1A, 2, 3, 4, 5, 6, 7, 8.

The eight (8) sheets of drawings filed December 3, 2002, in application number 10/308,726 will be removed and transferred from the above-identified application. This application will be re-processed with the eight sheets of transferred drawings containing, filed December 3, 2002.

In view of the above, the Notice mailed January 10, 2003, was mailed and error and is hereby withdrawn.

No petition fee is required and the fee of $130.00 remitted will be refunded, in due course.

The application file is being forwarded top the Office of Initial Patent Examination for re-processing with a filing date of December 3, 2003, using the eight sheets of drawings transferred, containing Figures 1, 1A, 2, 3, 4, 5, 6, 7, 8 filed on December 3, 2002, and correction of Office records to indicate that eight sheets of drawings were filed on that date.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 4

RAYMOND SUN
12420 WOODHALL WAY
TUSTIN, CA 92782

Beverly, FYI
This is the sister decision
that was done by Derek.

In re Application of	:	
Chien-Liang Yeh	:	
Application No. 10/308,726	:	DECISION ON PETITION
Filed: December 2, 2002	:	
Attorney Docket Number:	:	
YUSO-178	:	

This is a decision on the Petition under 37 CFR 1.182 to Obtain Filing Date Received, filed March 5, 2003, which is being treated as a petition under 37 CFR 1.181, to correct the files of the above-identified application.

The petition is granted.

The application was filed on December 2, 2002. On January 14, 2003, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application (hereinafter "Notice") stating that Figures 2a-b, 4a-d, 6a-d, 7a-b, described in the specification appeared to have been omitted from the application.

Petitioner responds with the instant petition wherein Petitioner argues that 4 sheets of drawings described in the specification were included with the application filed initially, on December 2, 2002, and were received by this Office as evidenced by the return-receipt postcard. In support, Petitioner provides a copy of a return receipt postcard acknowledging receipt of 4 sheets of drawings filed on December 2, 2002.

A review of Office records reveals that drawings from the above-identified application were inadvertently placed in application serial number 10/308,720.

It is obvious that the application was complete on the date of deposit. Since the drawings were in fact present in the Office on December 2, 2002, the application may be accorded a filing date of December 2, 2002, including 4 sheets of drawings containing Figures 1, 2A, 2B, 3, 4, 5, 6, 7A and 7B.

The four (4) sheets of drawings filed December 2, 2002, in application number 10/308,720, will be removed and transferred to the above-identified application. This application will be

reprocessed with the four (4) sheets of transferred drawings, containing Figures 1, 2A, 2B, 3, 4, 5, 6, 7A and 7B, filed on December 2, 2002.

In view of the above, the Notice mailed January 14, 2003, was mailed in error and is hereby withdrawn.

No petition fee is required and a refund of the petition fee has been scheduled as authorized in the instant petition.

This application is being forwarded to the Office of Initial Patent Examination for reprocessing with a filing date of December 2, 2002, using the four (4) sheets of transferred drawings, containing Figures 1, 2A, 2B, 3, 4, 5, 6, 7A and 7B, filed on December 2, 2002, and correction of Office records to indicate that four (4) sheets of drawings were filed on that date.

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

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Derek L. Woods
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of Chien-Liang Yeh Application No. 10/308,726 Filed: December 2, 2002 Attorney Docket Number: YUSO-178	: : : : : :	DECISION ON PETITION

This is a decision on the Petition under 37 CFR 1.182 to Obtain Filing Date Received, filed March 5, 2003, which is being treated as a petition under 37 CFR 1.181, to correct the files of the above-identified application.

The petition is granted.

The application was filed on December 2, 2002. On January 14, 2003, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application (hereinafter "Notice") stating that Figures 2a-b, 4a-d, 6a-d, 7a-b, described in the specification appeared to have been omitted from the application.

Petitioner responds with the instant petition wherein Petitioner argues that 4 sheets of drawings described in the specification were included with the application filed initially, on December 2, 2002, and were received by this Office as evidenced by the return-receipt postcard. In support, Petitioner provides a copy of a return receipt postcard acknowledging receipt of 4 sheets of drawings filed on December 2, 2002.

A review of Office records reveals that drawings from the above-identified application were inadvertently placed in application serial number 10/308,720.

It is obvious that the application was complete on the date of deposit. Since the drawings were in fact present in the Office on December 2, 2002, the application may be accorded a filing date of December 2, 2002, including 4 sheets of drawings containing Figures 1, 2A, 2B, 3, 4, 5, 6, 7A and 7B.

The four (4) sheets of drawings filed December 2, 2002, in application number 10/308,720, will be removed and transferred to the above-identified application. This application will be

reprocessed with the four (4) sheets of transferred drawings, containing Figures 1, 2A, 2B, 3, 4, 5, 6, 7A and 7B, filed on December 2, 2002.

In view of the above, the Notice mailed January 14, 2003, was mailed in error and is hereby withdrawn.

No petition fee is required and a refund of the petition fee has been scheduled as authorized in the instant petition.

This application is being forwarded to the Office of Initial Patent Examination for reprocessing with a filing date of December 2, 2002, using the four (4) sheets of transferred drawings, containing Figures 1, 2A, 2B, 3, 4, 5, 6, 7A and 7B, filed on December 2, 2002, and correction of Office records to indicate that four (4) sheets of drawings were filed on that date.

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

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Derek L. Woods
Petitions Attorney
Office of Petitions

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Needle & Rosenberg, P.C.
Suite 100
999 Peachtree Street
Atlanta, GA 30309-3915

In re Application of
HEMBRE et al.
Application No. 10308778
Filed: December 3, 2002
Attorney Docket 05015.024U2

: DECISION GRANTING PTA REQUEST

This decision is in response to Applicants' "REQUEST FOR RECONSIDERATION UNDER 35 USC 154 and 37 CFR 1.705(b)" filed on July 5, 2006 requesting that the Patent Term Adjustment be adjusted from a determination of three hundred and forty-five (345) days to a determination of five hundred and fifty-nine (559) days.

Applicants' request is **GRANTED-in-part.** The Office will also adjust the PTA calculation reflected in PAIR to reflect this decision. The actual determined amount of PTA is 557 days rather than applicants' requested amount of (559) days.

Applicant argues that the Office met the 14th month requirement on August 26, 2005 not January 13, 2005. Accordingly, applicants' assert that the proper amount of PTA for this period is 570 days.
In addition, applicants assert that the August 26, 2005 letter was responded to on December 7, 2005, an eleven day delay under 37 CFR 1.704(b).

Applicants' argument have been considered and deemed persuasive to the extent here indicated. A review of the record reflects that the Office mailed the January 13, 2005 Office action to the wrong address.[1] Accordingly, the Office action was re-mailed on August 26, 2005. The delay amounted to 570 days. In addition, the applicants are correct on the fact the response mailed on December 9, 2004 was an applicant delay under 37 CFR 1.704(b).[2] However the delay was 13

[1]Applicants had mailed a correspondence address change to the Office on December 17, 2004.

[2]Applicants argue that the response was filed on 12/7/05 but the response was not received until December 9, 2005. Note that 37 CFR 1.8 is not the date of reply for PTA purposes.

days not 11 days.[3]

After the mailing of this Office action, the Office will forward such application to the Office of Patent Publication for a prompt issuance of the patent. Any delays pursuant to 37 CFR 1.702(a)(4) or 1.702(b) will be reflected in the issue notification letter that is mailed to applicants approximately three weeks prior to issuance of the patent.

The applicants have authorized payment of $200.00 as the fee. No additional fees are required in the determination of this request.

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

Kery Fries

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

cc: Adjusted PAIR calculation

[3]Delay began on 11/27/05 and ended on 12/9/2005.

Day : Friday
Date: 2/16/2007

PALM INTRANET

Time: 11:41:17

PTA Calculations for Application: 10/308778			
Application Filing Date:	12/03/2002	PTO Delay (PTO):	345
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	557
PTO Delay Adjustment:	212		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
36	02/16/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	212		
29	04/07/2006	MAIL NOTICE OF ALLOWANCE			
28	04/05/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
27	04/05/2006	CASE DOCKETED TO EXAMINER IN GAU			
26	04/05/2006	ISSUE REVISION COMPLETED			
25	04/05/2006	NOTICE OF ALLOWABILITY			
24	03/28/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
20	08/26/2005	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
19	08/25/2005	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
18	08/25/2005	RESTART RESPONSE OF ACTION			
17	08/25/2005	CORRESPONDENCE ADDRESS CHANGE			
16	06/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	01/13/2005	MAIL NON-FINAL REJECTION	345		-1
14	01/11/2005	NON-FINAL REJECTION			
13	09/21/2004	MISCELLANEOUS INCOMING LETTER			
12	06/28/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	06/28/2004	CASE DOCKETED TO EXAMINER IN GAU			
10	06/28/2004	CLAIMS PTO			
9	03/19/2004	MISCELLANEOUS INCOMING LETTER			
8	06/09/2003	REFERENCE CAPTURE ON IDS			
7	06/09/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	01/21/2003	APPLICATION DISPATCHED FROM OIPE			

5	01/17/2003	APPLICATION IS NOW COMPLETE			
3	01/03/2003	CLEARED BY L&R (LARS)			
2	12/06/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/03/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No. 5

Harold C. Moore
Maginot, Moore & Bowman
Bank One Center/Tower
111 Monument Circle, Suite 3000
Indianapolis MN 46204-5115

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JUL 0 8 2003

OFFICE OF PETITIONS

In re Application of Davis, et al. Application No. 10/308,790 Deposited: December 3, 2002 Attorney Docket No. 1502-0026 For: REELS WITH DIRECTLY SECURED FLANGES	DECISION ON PETITION

This is a decision on (1) the petition requesting that the above-identified application be accorded a filing date of December 3, 2002 on the basis that a specification was received in the Office on December 3, 2002 and, in the alternative, (2) the petition to treat the December 3, 2002 filing as a request to convert provisional application no. 60/336,914, filed December 5, 2001, to a nonprovisional application. The two petitions were filed in the same paper on May 5, 2003 (certificate of mailing date April 28, 2003). Petition (1) will be treated under 37 CFR 1.53(e) and petition (2) will be treated under 1.182.

The petition under 37 CFR 1.53(e) is **DISMISSED**.

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

The application was deposited on December 3, 2002. On February 26, 2003, the Office of Initial Patent Examination mailed a " Notice of Incomplete Nonprovisional Application"(Notice) informing petitioners that the specification was missing and informing petitioners that the filing date of the application would be the date of receipt of the specification. In response to the Notice, petitioners timely filed the present petitions.

PETITION UNDER 37 CFR 1.53(e)

Petitioners request, in effect, that the Office withdraw the February 26, 2003 Notice on the basis that the specification was received in the Patent and Trademark Office (PTO) on December 3, 2002. In support, the petition is accompanied by (1) declarations of the attorney of record and a legal assistant who both reviewed the application and attest to the fact 23 pages of specification was present, and (2) a copy of applicants' annotated postcard receipt showing an Office of Initial Patent Examination generated bar code listing December 3, 2002 as the date of receipt.
The declarations by counsel and counsel's legal assistant submitted with the petition state without

equivocation or doubt that they each checked the assembled application papers in the Express Mail envelope to determine that the application included all intended pages.

The Office file is the official record of what was mailed by Express Mail or filed on December 3, 2002. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. In this regard, declarations by individuals involved in the preparation and mailing of the original application reciting their personal recollection or belief of what was contained in the application that they reviewed and/or mailed are no more persuasive of what was actually mailed than the contents of the official record. Such declarations, as in this case, are usually made months after the actual events recited.

It is for this reason that the Office has established a practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice, which was long ago established and is well publicized, requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. See section 503, Manual Of Patent Examining Procedure (MPEP 503).

Applicants have submitted a copy of their postcard receipt showing an Office of Initial Patent Examination generated barcode showing December 3, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 23 pages of patent application.

As stated above, a properly itemized return postcard constitutes *prima facie* evidence that the items were filed on the date stamped thereon. However, if the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. MPEP 503. The itemized postcard in this case was annotated with, "The PTO did not receive the following listed item(s) 23 pages of specification claims." Therefore, the postcard receipt cannot establish that the specification was filed on December 3, 2002.

The petition under 37 CFR 1.53(e) to accord a filing date of December 3, 2002 to the above-identified application is dismissed.

PETITION UNDER 37 CFR 1.182

In the event the petition under 37 CFR 1.53(e) is dismissed, petitioners request that the Office treat the December 3, 2002 filing as a request to convert provisional application no. 60/336,914 to a nonprovisional application.

A provisional application has a 12 month lifespan. Provisional Application No. 60/336,914 was filed on December 5, 2001. As admitted by petitioners, petitioners did not file a petition to convert provisional application No. 60/336,914 to a nonprovisional application prior to December 5, 2002, which is when the provisional application became abandoned by operation of law. See 35 USC 111(b)(5), 37 CFR 1.78(a)(3).

The Office may have been in possession of the items required to convert the provisional application to a nonprovisional application on December 3, 2002; **however, petitioners did not make such a request**. Petitioners are reminded that an application file must be complete in itself, a separate copy of every paper to be filed in a patent application must be furnished for each file to which the papers pertains. 37 CFR 1.4(b). Petitioners did not direct any request to the provisional application. The request to convert the provisional application to a nonprovisional application was submitted on May 5, 2003, which is well after the December 5, 2002 abandonment of the provisional application. Petitioners intended to file a nonprovisional application when petitioners submitted the application papers for the above-identified application on December 3, 2002. Petitioners admit that they did not intend to request a conversion of the provisional application to a nonprovisional application on December 3, 2002, and they certainly did not explicitly or implicitly request a conversion. Applicants' intention to preserve the priority date of the December 5, 2001 provisional is not grounds for the suspension of the regulation requiring that a conversion be requested during the pendency of the provisional application, or the fashioning of an extraordinary remedy. See In re Kabushiki Kaisha Hitachi Seisakusho, 39 USPQ2d 1319, 1320 (Comm'r Pat. 1994) (a missed deadline with loss of rights due to avoidable error does nor warrant an extraordinary remedy).

The petition under 37 CFR 1.182 to treat the December 3, 2002 filing of the above-identified incomplete application as a request to convert provisional application no. 60/336,914 to a nonprovisional application is **dismissed**.

Pursuant to petitioners' authorization, deposit account no. 13-0014 will be charged the $130 petition fee associated with filing a petition under 37 CFR 1.182.

As discussed in the February 26, 2003 Notice, the filing date of the application is the date of receipt of the specification. Thus, this application will be returned to the Office of Initial Patent Examination for further processing with a filing date of May 5, 2003, which is the date that a specification was received in the Office.

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

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

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

By Fax: (703) 308-6916
ATTN: Office of Petitions

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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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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WILLIAMS MULLEN
FOUNTAIN PLAZA THREE, SUITE 200
721 LAKEFRONT COMMONS
NEWPORT NEWS, VA 23606

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AUG 09 2006

OFFICE OF PETITIONS

In re Application of	:	
Robert W. Fox	:	
Application No. 10/308,793	:	
Filed: December 3, 2002	:	ON PETITION
Attorney Docket Number:	:	
029180.0001	:	

This is a decision on the Petition to Revive Unintentionally Abandoned Application Under 37 CFR 1.37, filed April 27, 2006. Applicant avers that a timely reply to the office action was filed. The petition is properly treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

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 26, 2005. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned December 27, 2005. A Notice of Abandonment was mailed on April 3, 2006.

Applicant's Assertion

Applicant responds with the instant petition wherein Applicant asserts that a timely reply was filed on March 27, 2006. In support of this assertion, Applicant files a copy of a Response including Remarks and an extension of time request. The Response includes a Certificate of mailing dated March 27, 2006. Applicant also files a copy of a return-receipt postcard acknowledging receipt of Response/Amendment, Certificate of mailing and Extension of Time request by this office on March 31, 2006.

A review of Office records confirms receipt by this office of a Response including Remarks and an extension of time request on March 31, 2006. Office finance records also reveal that deposit account 50-0776 was charged the fee for a three (3) month extension of time on March 31, 2006.

The person executing the petition is also the person who executed the Certificate of Mailing appearing on the Response/Amendment.

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

No petition fee has been charged and none is due.

The application file is being referred to Technology Center Art Unit 3725 for processing of the Response/Amendment in due course.

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

Derek L. Woods
Attorney
Office of Petitions

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CHEVELAND, OH 44114

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OFFICE OF PETITIONS

In re Application of
Ramendra Nath Majumdar, et al.
Application No. 10/308,798
Filed: December 3, 2002
Attorney Docket No. DN2002213

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 June 15, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional Application No. 09/365,095, as set forth in the amendment filed July 20, 2005.

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.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Retta Williams at (571) 272-3229. 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 1733 for appropriate action on the amendment filed July 20, 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 application.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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United States Patent and Trademark Office
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www.uspto.gov

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. 7,399,594	:
Rother et al.	: DECISION UPON REMAND AND
Issue Date: July 15, 2008	: RECONSIDERATION OF
Application No. 10/308,817	: PATENT TERM ADJUSTMENT
Filed: December 3, 2002	: AND NOTICE OF INTENT
Attorney Docket No. ALXN -PO1-	: TO ISSUE CERTIFICATE OF
082	: CORRECTION
Title: Hybrid 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 nine hundred and eighty-nine (989) 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 nine hundred and eighty-nine (989) 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 : 7,399,594 B2

DATED : **July 15, 2008** **DRAFT**

INVENTOR(S) : Rother 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 512 days

Delete the phrase "by 512 days" and insert – by 989 days--

Day : Tuesday
Date: 3/23/2010

PALM INTRANET

Time: 16:49:31

PTA Calculations for Application: 10/308817			
Application Filing Date:	12/03/2002	PTO Delay (PTO):	645
Issue Date of Patent:	07/15/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	133
Post-Issue Petitions:	0	Total PTA (days):	989
PTO Delay Adjustment:	477		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
97	03/23/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	477		
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3	01/15/2003	FILING DATE ASSIGNED			
2	12/09/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/03/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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400 EAST VAN BUREN
PHOENIX, AZ 85004-0001

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OFFICE OF PETITIONS

In re Application of
Christina Carlino
Application No. 10/308,824
Filed: December 2, 2002
Atty Docket No. 31542.1000

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed October 4, 2004, to revive the above-identified application.

The petition is GRANTED.

The Office acknowledges receipt of the Notice of Appeal filed October 4, 2004.

The 2-month period for filing the Appeal Brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

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

This application is being forwarded to Technology Center AU 3751.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

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OCT 1 4 2005

Director's Office
Group 3700

Paper No. 11

In re Application of
CHEN ET AL.
Application No.: 10/308,837
Filed: December 03, 2002

DECISION GRANTING PETITION
37 CFR 1.181

This application is before the Director of Technology Center 3700 for reconsideration of the Notice of Abandonment mailed January 19, 2005 for failure to respond to the office action mailed May 17, 2004. In view of the statements in the letter of January 25, 2005, the submission is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application. No fee is required.

The petition is granted.

In support of the request, petitioner has submitted a copy of a response and a copy of the Auto-Reply Facsimile Transmission from the USPTO indicating receipt of the response on July 13, 2004. Furthermore, a review of the file indicates that the original response with the fax center stamp indicating receipt of the response on July 13, 2004 is now in the file.

In view of the above, the Notice of Abandonment mailed January 19, 2005 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the Technical Support Staff to return the application to an active status and for entry of the amendment. The application will then be forwarded to the examiner for appropriate action.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch, 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
WWW.USPTO.GOV

Paper No. 9

HENRY L. EHRLICH
910 TRAVIS, STE. 2400
BANK ONE CENTER
HOUSTON TX 77002

COPY MAILED

SEP 22 2003

OFFICE OF PETITIONS

In re Application of
Gibson, Hawes, Kabbani & Snodgrass
Application No.: 10/308,840
Filed: December 3, 2002
Attorney Docket No.: 24469-P002X1P1
For: SYSTEM AND METHOD FOR CLEANING AND PRIMING AN EXTRUSION HEAD

DECISION NOTING JOINDER AND PETITION UNDER 37 CFR 1.47(A) DISMISSED AS MOOT

Papers filed on September 16, 2003 in reply to "Decision Refusing Status Under 37 CFR 1.47(a)" mailed on August 8, 2003, included a Declaration signed by the previously nonsigning inventor, John E. Hawes, in compliance with 37 CFR 1.63.

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

This application will be 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
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Paper No. 6

HENRY L. EHRLICH
910 TRAVIS, STE. 2400
BANK ONE CENTER
HOUSTON TX 77002

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AUG 0 8 2003

OFFICE OF PETITIONS

In re Application of
Gibson, Hawes, Kabbani & Snodgrass
Application No.: 10/308,840
Filed: December 3, 2002
Attorney Docket No.: 24469-P002X1P1
For: SYSTEM AND METHOD FOR CLEANING AND PRIMING AN EXTRUSION HEAD

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed July 17, 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 3, 2002 without an executed oath or declaration. Accordingly, on January 17, 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 17, 2003, a petition for a four month extension of time and required fee, a declaration executed by 3 of 4 joint inventors, the surcharge, the petition fee, and the instant petition were filed. A statement of facts of Attorney Henry L. Ehrlich accompanies the petition. Attorney Ehrlich explains that non-signing joint inventor John E. Hawes received a copy of the declaration for the above-identified application, but did not respond to the request that he sign the declaration for the patent application. He cannot be reached though his latest known cell number or e-mail address. Attorney Ehrlich states that it is his belief that Mr. Hawes does not wish to cooperate.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

As to item (1), Applicants have failed to establish that the inventor has refused to sign the declaration. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events. The Office requires that the non-signing inventor be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d). The February 21, 2003 letter from Bonnie J. Hunt, Administration Manager for FAS Technologies, to Mr. Hawes does not establish that a complete copy of the application was mailed to Mr. Hawes's last known address.

Mr. Hawes cannot make the necessary statements found in the declaration-- i.e. "I have reviewed and understand..." -- without having examined the patent application.

Mr. Hawes must have the complete application in his possession in order to make an informed decision as to whether he joins in its filing. When petitioners can show that Mr. Hawes was mailed or received the complete application and that he either refused to sign the declaration or would not respond to the request that he sign the declaration within a reasonable amount of time, petitioners will have satisfied this requirement.

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
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

HENRY L EHRLICH
P.O. BOX 50784
DALLAS TX 75201-0784

In re Application of	:	
Gregory M. Gibson et al	:	
Application No. 10/308,840	:	DECISION GRANTING PETITION
Filed: December 3, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 24469-P002X1P1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 30, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of March 23, 2004, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 1734.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCHWEGMAN, LUNDBERG & WOESSNER/SAP
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/30/2010

Applicant	: Knut Heusermann	: DECISION ON REQUEST FOR
Patent Number	: 7627585	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/308,852	: 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 **1734** 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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MORGAN LEWIS & BOCKIUS LLP
ONE MARKET SPEAR STREET TOWER
SAN FRANCISCO, CA 94105

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DEC 0 6 2007

OFFICE OF PETITIONS

In re Application of	:	
Kannan Srinivasan et al	:	
Application No. 10/308,865	:	DECISION DISMISSING PETITION
Filed: December 2, 2002	:	UNDER 37 CFR 1.313(a)
Attorney Docket No. 067407-5106US01	:	

This is a decision on the petition under 37 CFR 1.313(a), filed December 3, 2007, 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 and Fee(s) Due was mailed on September 6, 2007, with the issue fee being due on or before December 6, 2007. The petition states that the issue fee in this case has not been paid.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

Inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210.

The matter is being referred to Technology Center AU 1753 for appropriate processing of the RCE filed December 3, 2007, and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 9

THELEN REID & PRIEST
SUITE 1200
225 W. SANTA CLARA STREET
SAN JOSE, CA 95113-1723

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FEB 25 2004

OFFICE OF PETITIONS

In re Application of	:	
Alain Porte	:	DECISION DISMISSING
Application No. 10/308,882	:	PETITION UNDER
Filed: December 2, 2002	:	37 CFR 1.55(c)
Attorney Docket No. 034299-000477	:	

This is a decision on the petition under 37 CFR 1.55(c), filed January 2, 2004, requesting acceptance of an unintentionally delayed claim under 35 U.S.C. § 119 (a) - (d) and (f) for benefit of the filing date of a foreign application; namely, French Application No. 01 15300, filed November 27, 2001.

The petition is **dismissed**.

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date;

(3) the surcharge of $1,330.00, 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 does not comply with item (5) since the instant nonprovisional application was filed more than one year of the filing date of the foreign application, for which the claim for benefit of priority is being sought. Therefore, the petition to accept an unintentionally delayed claim to foreign French Application No. 01 15300 cannot be granted.

It is noted that the claim for priority to the above-noted French application was present on filing of the instant application and, thus, was timely submitted in accordance with 37 CFR 1.55(a)(1)(i). Petitioner should note that the failure of the Office to note the claim for foreign priority to the above-noted French application was not due to a failure on applicant's part to timely make the request but, rather, was due to the fact that the instant application was filed more than one year of the filing date of the French application, as noted above.

Any inquiries directly pertaining to this matter may be directed to Wan Laymon at (703) 306-5685.

This application is being returned to Technology Center AU 3677 to await a reply to the nonfinal Office action mailed December 9, 2003. Failure to timely reply will result in the abandonment on the application.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

FINNEGAN, HENDERSON, FARABOW, GARRETT &
DUNNER, LLP
1300 I STREET, NW
WASHINGTON, DC 20005

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MAY 2 2 2003
OFFICE OF PETITIONS

In re Application of :
Wenz, et al. :
Application No. 10/308,891 :
Filed: December 2, 2002 :
Attorney Docket No. 7414.0020-01000 :

ON PETITION

This is a decision on the papers styled "Response To Notice To File Missing Parts of Nonprovisional Application With Petition Under 37 CFR 1.53(e)" filed on April 17, 2003, requesting that the above-identified application be accorded a filing date of December 2, 2002, including page 83 of the specification.

The application was filed on December 2, 2002. However, on February 19, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice To File Missing Parts of Nonprovisional Application" that stated the application had been accorded a filing date, and that page 83 of the specification appears to have been omitted.

In response, on April 17, 2003, the instant petition and a copy of page 83 of the specification were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of 39 pages of claims (Claims 1-267 on pages 55-93 of the specification). A review of the application file indicates the presence of 38 pages of claims (claims 1-199 on pages 55-82 of the specification and claims 208-267 on pages 84-93 of the specification). It is assumed that page 83 of the specification (containing claims 200-207) was misplaced by the Office.

In view of the above, the petition is granted.

The $130.00 petition fee paid for the papers filed on April 17, 2003, will be refunded to deposit account no. 06-0916.

This application will be returned to OIPE for further processing with a filing date of December 2, 2002, using the copy of page 83 of the specification, supplied on April 17, 2003.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/308895

Paper No.: —

DATE : ~~8/22/05~~ 11/17/05

TO SPE OF : ART UNIT 2858

SUBJECT : Request for Certificate of Correction on Patent No.: 6903556 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:
"94" should be --96--

SPE

2858
Art Unit

OIPE JC131
AUG 0 1 2005
PATENT & TRADEMARK OFFICE

PTO/SB/44 (02-01)
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-2050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 6903556

DATED : June 7, 2005

INVENTOR(S) : John Sutton

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

Column 8, Line 56 change "to-receive" to --to receive--

(56) References Cited, Other Publications, change "EL CID test evaluations, 1994-96" to --"EL CID test evaluations, 1984-96--

MAILING ADDRESS OF SENDER:

WESTMAN, CHAMPLIN & KELLY, P.A.
1400 - International Centre
900 Second Avenue South
Minneapolis, MN 55402

PATENT NO. _____

No. of additional copies

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comment on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

AUG 5 - 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

SCHWEGMAN, LUNDBERG, WOESSNER
& KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

COPY MAILED
JUN 26 2006
OFFICE OF PETITIONS

In re Application of	:	
Maurice Corrigan	:	DECISION ON
Application No. 10/308,908	:	PETITION
Filed: December 3, 2002	:	
Attorney Docket No. 967.066US1	:	
	:	

This is a decision on the PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION, filed May 24, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to pay the Issue Fee within three months of the mailing date, February 4, 2005, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. No reply having been received, the above-identified application became abandoned on May 5, 2005. A courtesy Notice of Abandonment was mailed on May 18, 2006.

The petition included the required reply[1] in the form of payment of the Issue Fee; payment of the petition fee set forth in 37 CFR § 1.17(m); and the required statement of unintentional delay. No terminal disclaimer is required.

[1] There was no distinct but concurrent requirement for new drawings or for payment of a Publication Fee.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded for processing into a patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HICKMAN PALERMO TRUONG & BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110-1083

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SEP 12 2008

In re Application of	:	
Carol Lyndall Colrain, et al.	:	
Application No. 10/308,927	:	DECISION ON PETITION
Filed: December 12, 2002	:	
Attorney Docket No. 50277-1970	:	

This is a decision on the petition under 37 CFR 1.314, filed September 3, 2008, to defer issuance of the patent.

The petition is **GRANTED**.

Issuance will be deferred for a period of one month from the date of this decision. At the end of this period, the application will be referred to Publishing Division to be processed into a patent.

If an additional deferral period is required, another petition and fee should be promptly submitted. The petition must include a showing of extraordinary circumstances. See MPEP 1306.01.

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

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

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

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

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

Terri Williams
Terri Williams
Petitions Examiner
Office of Petitions

10/308,964

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-24-06

TO SPE OF : ART UNIT 1734

SUBJECT : Request for Certificate of Correction on Patent No.: 7005009

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

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

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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

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

Comments:

The insertion under "References cited" 4,696,885 9/1987 Vijan and the addition of Foreign Patent Document JP 06-163398; JP 2001-102292 cannot be entered since these documents were not cited on a 1449.

Nadine Norton — SPE

1792 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MORGAN LEWIS & BOCKIUS LLP
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

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FEB 10 2005

OFFICE OF PETITIONS

In re Application of :
Philip E. Jones :
Application No. 10/308,973 : DECISION GRANTING PETITION
Filed: December 3, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 3447-0085-999 :

This is a decision on the petition, filed January 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 March 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 3644 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).*

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

Paper No. 3

Charles F. Meroni, Jr.
P.O. Box 309
Barrington, IL 60011

MAY 1 3 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Thomas F. Liston Application No. 10/308,980 Attorney Docket No. 02158 Filed: November 27, 2002 For: SYSTEM AND METHOD FOR NETWORK INTRUSION PREVENTION	DECISION DISMISSING PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(d) AND MPEP § 708.02(XI)

This is a decision on the petition to make special filed November 27, 2002 under 37 C.F.R. § 102(d) and MPEP § 708.02 (XI): Inventions for Countering Terrorism.

The petition is **DISMISSED.**

MPEP § 708.02(XI), which sets out the prerequisites for a grantable petition for Inventions for Countering Terrorism" under 37 C.F.R. § 1.102(d), states in relevant part:

> International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.
>
> Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(h) requesting the U.S. Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Petitioners' submission fails to meet the criteria set out with respect to countering terrorism in MPEP § 708.02(XI). The disclosed invention is generally directed to a system for preventing unauthorized intrusions into computer networks. Note there is no mention of terrorist activity in the disclosure. Providing protection against hacking does not directly prevent "violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State". While petitioners have provided a statement explaining how "unauthorized intrusion into Internet connected computer networks to disrupt the flow of commerce is a violation of the criminal laws of the United States"; the apparent protection of the data is against a "hackers, worm or virus". While

it is important to prevent hackers from "deterring people from using Internet connected computer networks to transact business", such deterring does not rise to the level of acts intended to intimidate or coerce a civilian population; to influence the policy of a government by intimidation or coercion; or to affect the conduct of a government by assassination or kidnapping. In addition, such security measures as proposed by applicants may actually hinder law enforcement attempts to gain access to computer networks utilized by terrorists. Thus the invention could be an aid to terrorism or criminal activity.

As a result, no advancement in the technology of countering terrorism has been persuasively shown.

The petition is **DISMISSED**.

Any request for reconsideration must be filed within TWO MONTHS of the mailing date of this decision. It is suggested that applicants review MPEP § 708.02 regarding other grounds available for filing a petition to make special. In particular, note MPEP § 708.02(VIII): Accelerated Examination, which does not place limitations on the subject matter of the application.

The petitioners have stated a check to cover the cost of the filing of the petition was enclosed, but the Office's records do not show any such deposit. Therefore, Deposit Account No. 50-0653 has been charged the required fee of $130.00.

The application is being forwarded to Technology Center 2100's Central Files to await examination in its proper turn based on its effective filing date. Telephone inquiries regarding this decision should be directed to the undersigned at 703-308-0269.

for

Josie A. Ballato
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software and Information Security

BJP

BJP
May 6, 2003

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

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SEP 11 2008

In re Patent No. 7,072,902

Issue Date: July 4, 2006

Application No. 10/308,987

Filed: November 26, 2002

Attorney Docket No. 6727/1J991US0

ON PETITION

This is a decision on the petition filed August 18, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

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Mailed: 8/10/05

In re application of :
Itzhak Rosenthul : DECISION ON
Serial No. 10/308,988 : PETITION
Filed: December 3, 2002 :
For: CORROSION RESISTANT POLY-METAL DIFFUSION COATINGS AND A METHOD OF MAKING SAME

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed January 25, 2005.

On August 19, 2004, a non-final office action was mailed by the examiner, rejecting all of the claims under 35 USC 103. Applicant responded to this office action on November 9, 2004. This response contained various amendments to independent claim 1 and cancelled dependent claims 5-8. The subject matter of claim 5 was inserted into claim 1. A final rejection was then mailed January 25, 2005 again rejecting all of the claims over the previously cited references. A new ground of rejection under 35 USC 112, second paragraph was also made over all of the pending claims.

On June 27, 2005, the instant petition under 37 CFR 1.181 was filed to formally request the withdrawal of finality of the January 25, 2005 office action.

Applicant's position for the withdrawal of the finality is that the new grounds of rejection in the final office action were not necessitated by Applicant's amendments to the claims.

DECISION

Section 706.07 of the MPEP states:

706.07(a) Final Rejection, When Proper on Second Action

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

Petitioner urges that the 35 USC 112, second paragraph rejection in the final office action was not necessitated by Applicant's amendments to the claims. It is noted that original claims 5-8 all contain the limitation "Al-rich inclusions." In the non-final office action mailed on August 19, 2004, the examiner made no mention of this limitation with respect to whether or not the phrase was vague and/or indefinite. Applicant amended the claims and put the aforementioned phrase into independent claim 1. In the subsequent final office action, the examiner rejects this phrase as being "vague and indefinite" under 35 USC 112, second paragraph. Such a rejection should have been made in the

non-final office action and therefore, the new grounds of rejection in the final office action were clearly not necessitated by the amendments to the claims.

Because the new ground of rejection was not necessitated by amendment, the petition for withdrawal of finality is **GRANTED**

It is noted that Applicant submitted a response to the January 25, 2005 office action on July 26, 2005. This response was not entered by the examiner. Because the finality of the January 25, 2005 office action has been withdrawn, the response will be treated as an amendment after non-final and will be entered. The examiner is directed to treat the amendment as such and prepare an office action in response to the amendments filed.

Michael Ball

Michael Ball, Director
Technology Center 1700
Chemical and Materials Engineering

Edward LANGER
c/o Shiboleth, Yisraeli, Roberts, Zisman & Co.
60th Floor
350 Fifth Avenue
New York NY 10118

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td

Mailed: 2-1-06

In re application of	:	
Rosenthul	:	DECISION ON
Serial No. 10/308,988	:	PETITION
Filed: December 3, 2002	:	

For: CORROSION RESISTANT POLY-METAL DIFFUSION COATING AND A METHOD OF APPLYING SAME

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed September 22, 2005.

Rule 1.181, Section (f) states:
§ 1.181 Petition to the Commissioner.

(f) Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable

It is noted that the instant petition was filed on December 21, 2005. This falls approximately three months after the date of the final rejection and is therefore not timely under Rule 181. It is also pointed out that that only 4 pages of the petition was received by the office and therefore, the petition was incomplete.

Accordingly, because the instant petition is untimely, the instant petition is **DISMISSED.**

The period for reply continues to run from the September 22, 2005 office action.

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

Edward LANGER
c/o Shiboleth, Yisraeli, Roberts, Zisman & Co.
60th Floor
350 Fifth Avenue
New York NY 10118

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Mailed: 3/15/06

In re application of	:	
Itzhak Rosenthul	:	DECISION ON
Serial No. 10/308,988	:	PETITION
Filed: December 3, 2002	:	

For: CORROSION RESISTANT POLY-METAL DIFFUSION COATINGS AND A METHOD OF APPLYING SAME

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed September 22, 2005.

On September 22, 2005, a second final office action was mailed by the examiner in response to a petition that was granted to withdraw the finality of an office action mailed January 25, 2005. Applicants filed a petition on June 27, 2005 to withdraw the finality of this office action, however, the petition was dismissed as being untimely.

On February 8, 2006 the instant petition under 37 CFR 1.181 was filed to request reconsideration of the dismissal of the earlier petition. Additionally, the petition renews the request to withdraw the finality of the office action mailed September 22, 2005. The request for reconsideration of the earlier petition decision is granted. Accordingly, the petition will be decided on its merits.

Applicant's position for the withdrawal of the finality is that no clear issue as been established between the examiner and applicants prior to the final rejection. It is also the position of applicant that the office action contains a technical inaccuracy, the examiner has relied on hindsight and has used an arbitrary combination of references.

DECISION

Section 706.07 of the MPEP states:

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

Before final rejection is in order a clear issue should be developed between the examiner and applicant. To bring the prosecution to as speedy conclusion as possible and at the same time to deal justly by both the applicant and the public, the invention as

disclosed and claimed should be thoroughly searched in the first action and the references fully applied; and in reply to this action the applicant should amend with a view to avoiding all the grounds of rejection and objection. Switching from one subject matter to another in the claims presented by applicant in successive amendments, or from one set of references to another by the examiner in rejecting in successive actions claims of substantially the same subject matter, will alike tend to defeat attaining the goal of reaching a clearly defined issue for an early termination, i.e., either an allowance of the application or a final rejection.

Petitioner first argues that the final office action contains conflicting items when the examiner states that applicant's amendment necessitated the new grounds of rejection yet no new ground of rejection is present. The statement made by the examiner is correct. The examiner made a new ground of rejection relating to a new matter rejection in paragraph 5 of the office action. This new rejection was clearly made as a result of applicant's amendments to the claims changing 0.2 to 0.05. There is no conflict with the examiner's statements.

Next, it is argued that the examiner states for the first time that the dimension of the defects and the degree of filling are not provided in the claims or specification. It is further argued that the mechanism of the invention involves the filling of the coating defects to protect the main body of the coating and slow down the corrosion rate. Petitioner argues that to raise the issue of defects and filling as a basis for rejection for the first time is unfair and demonstrates no clear issue has been established. It is noted that the aforementioned remarks made by the examiner came as a result of applicants amending their claims to include the limitation "by filling in defects in said layer." While such a mechanism may have been argued previously, this was the first time such a limitation was presented as an actual claim limitation. While petitioner is correct in that the mechanism was previously argued (although not claimed) the examiner did in fact respond to such arguments in the action mailed January 25, 2005. On page 5, paragraph 7, the examiner stated ""[w]ith respect to applicant's argument that "The diffusion multiphase coating of the present invention has a drastically mechanism from the diffusion coating disclosed in BE '788", applicant is reminded that the instant claims are product claims. Process limitations are not read into the patentability of the product claims." The examiner clearly put forth her position and applicants had ample opportunity to respond to this position.

Petitioner also argues that the examiner is relying on "speculation and hindsight reconstruction" of the references in view of the invention. This is not a petitionable matter. Such an argument is appropriate for the Board of Patent Appeals and Interferences. It is further argued that there is no motivation to combine the references in the 35 USC 103 rejection. Once again, this is clearly not a petitionable issue but rather an issue for the Board of Appeals. Lastly, it is argued that if there is a technical inaccuracy, this can be the basis to withdraw the finality of the office action. This argument is also not persuasive. In the instant case, applicant and the examiner disagree over what is taught by the references and whether the teachings meet the instant claims. As with the other issues previously addressed, this is an issue for the Board of Appeals to determine whose position is correct.

Accordingly, a clear issue has been developed in the instant prosecution. The examiner has taken the position that the combination of references inherently meet the instantly claimed products and that the mechanism does not impart patentability on the product itself. While

applicants disagree with this position, nonetheless, a clear issue for appeal to the Board of Appeals has been developed.

Because a clear issue has been developed, the finality of the September 22, 2005 office action was proper and the petition is **DENIED.**

Applicant's time for response to the September 22, 2005 office action continues to run as set forth in the office action.

JMStone

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

Edward Langer
c/o Shiboleth, Yisraeli, Roberts, Zisman & Co.
350 Fifth Avenue - 60th Floor
New York NY 10118

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OFFICE OF PETITIONS

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor,
San Francisco, California 94111-3834

In re Application of	:	
ERIC VERREAULT	:	
Application No. 10/308,990	:	DECISION ON PETITION
Filed: November 27, 2002	:	TO WITHDRAW
Attorney Docket No. 10.1033	:	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 27, 2004.

The request is **MOOT**.

A review of the file record indicates that the power of attorney to TOWNSEND and TOWNSEND and CREW LLP has been revoked by the assignee of the patent application on March 7, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the 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

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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN NSW 2041
AUSTRALIA

FEB 8 2006

In re Application of: SILVERBROOK	:	
Application No. 10/309025	:	NOTICE OF WITHDRAWAL
Filed: 12/04/02	:	FROM ISSUE
Attorney Docket No. **ZF110US**	:	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 10/28/2005, 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

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KIA SILVERBROOK
SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN NSW 2-041 AU AUSTRALIA

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OFFICE OF PETITIONS

In re Application of	:	
Kia Silverbrook	:	
Application No. 10/309,025	:	DECISION ON PETITION
Filed: December 4, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ZF110US	:	

This is a decision in response to the petition under 37 CFR 1.78(a)(3), filed June 5, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed nonprovisional Application No. 09/436,750.

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 Director 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 instant application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (571) 272-3204. 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 2851 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances M. Hicks
Lead, Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/309,025	12/04/2002	2851	670	ZF110US	11	11	1

CONFIRMATION NO. 1647
CORRECTED FILING RECEIPT
OC000000021289962
OC000000021289962

24011
SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, NSW 2041
AUSTRALIA

Date Mailed: 11/20/2006

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

Applicant(s)

Kia Silverbrook, Balmain, AUSTRALIA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 09/942,601 08/31/2001 PAT 6,906,778
which is a CIP of 09/436,750 11/09/1999 PAT 6,539,180

Foreign Applications

AUSTRALIA PP7017 11/09/1998

If Required, Foreign Filing License Granted: 12/23/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/309,025

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

IMAGE PROCESSOR WITH INTEGRATED PRINTING

Preliminary Class

396

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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LEONG C LEI
PMB # 1008
1867 YGNACIO VALLEY ROAD
WALNUT CREEK, CA 94598

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OFFICE OF PETITIONS

In re Patent No. 6,854,882 :
Issued: February 15, 2005 :
Application No. 10/309,029 : ON PETITION
Filed: December 4, 2002 :
Patentee: Min-Ying Chen :

This is a decision on the petitions, filed August 21, 2006 and September 13, 2006, under 37 CFR 1.182 requesting a grant of new Letter Patent because of the misspelling of the inventor's name. The petition is being treated as a request to reprint the first page of the Letters Patent.

The petition is dismissed because it lacks the required petition fee pursuant to 37 CFR 1.17(f).

Effective December 8, 2003, the fee for a petition under 37 CFR 1.182 was increased to $400. Any fee amount paid on or after December 8, 2004, must be paid at the revised amount. Petitioner submitted a fee of $130.00. Since the petition does not include an authorization to charge a fee deficiency to a deposit account, a $270.00 petition fee deficiency exists.

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 the $270 petition fee deficiency and a cover letter entitled "Renewed Petition under 37 CFR 1.182." This is a **not** final agency action within the meaning of 5 U.S.C. § 704.

Alternatively, petitioner may request a refund of the partial petition fee within the two-month period. The request should be made in writing and addressed to: Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Patent No. 6,854,882	:	
Issue Date: February 15, 2005	:	
Application No. 10/309,029	:	DECISION ON PETITION
Filed: December 4, 2002	:	
Attorney Docket No. FP941	:	

This is a decision on the petition under 37 CFR 1.182, filed November 26, 2007, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Office of Data Management is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to Sherry D. Brinkley at (571) 272-3204. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Krystal Paige in the Office of Data Management at (703) 308-9250, Ext. 139.

A copy of this decision is being faxed to Office of Data Management for issuance of a duplicate Letters Patent.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor, Room C32 (Fax No. (571) 270-9937)

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IN THE UNITED STATES PATENTS AND TRADEMARK OFFICE

In re Application of:

Min-Ying CHEN

Patent No. **6,854,882**

Issued: **February 13, 2005**

Name of Patentee: ACTHERM, INC.

Title: **RAPID RESPONSE ELECTRONIC CLINICAL THERMOMETER**

Attn: Office Of Petitions

Honorable Commissioner for Patents

P.O. Box 1450

Alexandrai, VIRGINIA 22313-1450

November 26, 2007

PETITION DUPLICATE LETTERS PATENT UNDER 37 CFR 1.182

Dear Sir/Madam,

03/04/2008 CKHLOK 00000014 6854882
01 FC:1462 400.00 OP

1. We refer to the above-noted patent

2. The original Letters Patent was returned to the USPTO on March 21, 2005 with a corresponding request for new Letters Patent because the name of the inventor was spelled incorrectly.

3. After numerous follow-up calls to the USPTO regarding the re-issue of a new Letters Patent we were informed on December 27, 2005 that the USPTO does not re-issue new Letters Patents based on typographical errors unless the error was made by the USPTO. We were informed that we had to make a request for a Certificate of Correction in this case.

4. Since making contact with the USPTO in December 2005, there has been several errors of miscommunication made regarding the correct name of the inventor, however we were finally granted a Certificate of Correction with the correct name of the inventor on August 22, 2007.

5. However, the USPTO still has the original Letters Patent that was submitted on March 21, 2005.

6. On September 27, 2007, we contacted the USPTO Petitions department to inquire as to whether we can have the original Letters Patent returned. We were

Adjustment date: 03/04/2008 CKHLOK
11/26/2007 PCHOMP 00000019 10309029
01 FC:1462 -400.00 OP
11/26/2007 PCHOMP 00000019 10309029
01 FC:1462 400.00 OP

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informed that once documents are sent back to the USPTO, they become property of the USPTO and we would have to petition the USPTO to grant us a Duplicate Copy of the Letters Patent.

7. We respectfully submit this Petition to the USPTO to request a duplicate Letters Patent. We have enclosed the required fee of USD $400.00 as per the attached Credit Form.

8. We trust this petition will satisfy all questions as to why this petition is being made.

We look forward to hearing from you soon.

Respectfully submitted,

Leong C. LEI (Reg. No. 50402)
PMB 1008, 1867 Ygnacio Valley Rd.
Walnut Creek, CA 94598
Tel: 905 812 9381 Fax: 905 286 9781

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FROM DIRECTORS OFFICE

NOV 04 2005

TECHNOLOGY CENTER 3600

Te-Hsin Hsiao
P.O. Box 82-144
Taipei,
Taiwan

In re Application of
Te-Hsin Hsiao
Application No. 10/309,035
Filed: December 4, 2002
For: SHOCK ABSORBER STRUCTURE OF A CASTOR WHEEL

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on July 29, 2004.

The petition is **DISMISSED**.

A review of the file record reveals that a Notice of Allowability, and Notice of Allowance and Issue Fees Due were mailed to applicant on March 11, 2004, setting a three-month statutory period for response. Since a response was not received before the expiration of the three-month statutory period for reply, the application became abandoned at midnight on June 11, 2004. A Notice of Abandonment was mailed on July 26, 2004.

Petitioner contends that the March 11, 2004 Notice of Allowability and Notice of Allowance and Issue Fees Due were not received. In support thereof, petitioner provides a statement of non-receipt, 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 a copy of the docket record for Application No. 10/309,035.

There is a strong presumption that an 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 applications having responses with the due date of June 11, 2004 (i.e., a general docket record for all applications having a response due date of June 11, 2004. The absence of the present application from such a list is considered to be evidence of non-receipt of the Office action. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993). The petitioner has failed to comply with requirement (3) indicated above.

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.

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

RAR/rwg: 10/24/05

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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MAILED
FROM DIRECTORS OFFICE

JAN 13 2006

TECHNOLOGY CENTER 3600

Te-Hsin Hsiao
PO Box 82-144
Taipei TW TAIWAN

In re Application of	:	
Te-Hsin Hsiao	:	DECISION ON PETITION
Application No. 10/309,035	:	TO WITHDRAW THE
Filed: December 04, 2002	:	HOLDING OF ABANDONMENT
For: SHOCK ABSORBER STRUCURE OF	:	
A CASTOR WHEEL	:	

This is a decision on applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on July 29, 2004.

The petition is **DISMISSED.**

A review of the file record reveals that the application became abandoned for failure to timely pay the required issue fee and publication fee within the statutory period of three months from the date of mailing of the Notice of Allowance and Issue fee Due mailed on March 11, 2004. A Notice of Abandonment was mailed on July 26, 2004.

Applicant's petition indicates that the Notice of Allowance was never received. In support thereof applicant has provided a copy of "the docket record". The support provided is not considered to be a docket record and appears to be nothing other than a copy of a file jacket.

There is a strong presumption that mail properly addressed and delivered to the United States Postal Service was in fact delivered to the addressee. An allegation that an Office communication was not received may be considered in a formal petition for the withdrawal of the holding of abandonment, in accordance with *Delgar Inc. v. Schuyler*, 172 USPQ 513. However, the presumption that the Office communication was delivered to applicant may be overcome by a showing that the communication was not, in fact, received as indicated below.

Since the application is pro se, statements of non-receipt should include a statement by the applicant, and by anyone else at applicant's correspondence address, who would have handled the Office communication, and include any available documentary evidence of mail received, covering a reasonable period after the date of the Office communication, to show non-receipt of the communication in question. Copies of records on which the receipt date of the Office communication would have been entered had it been received, (*e.g.*, a copy of the outside of the file maintained by applicant), are required if available. Also, a showing of any docket records *or other method* which would serve as a reminder of a response due date should be submitted. Whatever method applicant uses as a reminder, and submits in response to this decision should be adequately explained. Also, a statement is required that a search of the file maintained by applicant, or any other location where correspondence from

the USPTO is kept, failed to find a copy of the Office communication in question. Finally, applicant must state that he was in fact at the correspondence address of record at the time the Office action would have been received.

Any such exhibits should be submitted as part of statement(s) showing that no Office communication was ever received.

Applicant's petition of July 29, 2004 does not include any statement that the applicant was at the correspondence address at the time the office action would have been received. Also, no statement has been made by others (the "local agent" handling incoming mail, and anyone else at the correspondence address) that the Office Action was not received.

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" and should be mailed to the Commissioner for Patents, P.O. Box 1450, Technology Center 3600, Alexandria, VA 22313-1450.

For

Randolph A Reese
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6619

RAR/rjc 08/03/05

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

LEONG C LEI
PMB # 1008
1867 YGNACIO VALLEY ROAD
WALNUT CREEK CA 94598

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OFFICE OF PETITIONS

In re Application of	:	
Hsiao, Te-Hsin	:	
Application No. 10/309,035	:	ON PETITION
Filed: December 4, 2002	:	
Attorney Docket No. FP9116	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 24, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

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OFFICE OF PETITIONS

In re Application of	:	
Silverbrook et al.	:	
Application No. 10/309,036	:	ON PETITION
Filed: December 4, 2002	:	
Attorney Docket No. ZF120US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 15, 2005, to revive the above-identified application.

The petition is **GRANTED.**

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

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 full $120.00 extension of time fee was submitted with the petition on August 15, 2005, it was subsequent to the maximum extendable period for reply. Therefore, this fee is unnecessary and will be refunded to petitioner via treasury check in due course.

This matter is being referred to Technology Center 2800 for processing of the Request for Continued Examination under 37 CFR 1.114 originally filed on December 9, 2004, as well as with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN NSW 2-041 AU AUSTRALIA

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OCT 2 4 2006

OFFICE OF PETITIONS

In re Application of	:
Silverbrook et al.	:
Application No. 10/309,036	: DECISION ON PETITION
Filed: 4 December, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ZF120US	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 19 June, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment 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 application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt

accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

Petitioners are reminded that, in future filings, the petition paper itself should be signed. 37 CFR 1.4 requires all papers filed in the office to be signed. Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects. 37 CFR 1.4(c)

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 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 2853 for consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Frances Hicks
Lead Paralegal
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/309,036	12/04/2002	2853	370	ZF120US	15	3	1

CONFIRMATION NO. 1617

CORRECTED FILING RECEIPT

OC000000020702088

24011
SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, NSW 2041
AUSTRALIA

Date Mailed: 10/04/2006

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)

Kia Silverbrook, Balmain, AUSTRALIA;
Gregory John McAvoy, Balmain, AUSTRALIA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 09/855,093 05/14/2001 PAT 6,505,912
which is a CON of 09/112,806 07/10/1998 PAT 6,247,790

Foreign Applications

AUSTRALIA PP3987 06/08/1998
If Required, Foreign Filing License Granted: 02/12/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/309,036

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Fluid ejection chip that incorporates wall-mounted actuators

Preliminary Class

347

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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OFFICE OF PETITIONS

In re Application of
Tetsuya Kato et al
Application No. 10/309,090
Filed: December 4, 2002
Attorney Docket No. 114408

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

This is a decision on the petition, filed February 26, 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 February 9, 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 2625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 01182005

Chi-Tsai CHANG
PO Box 82-144
TAIPEI TW TAIWAN

FEB - 2 2005

In re Application of CHANG Application No. 10/309,104 Filed: December 4, 2002 Title: STRUCTURE OF A SOCKET	: : : : :	DECISION ON PETITION

This is a decision on the petition filed December 29, 2003, requesting that the holding of abandonment in the above-identified application be withdrawn.

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

A Notice of Allowance and Fee(s) Due was mailed on July 11, 2003, setting forth a three-month period of response. The application became abandoned for failure to pay the issue fee.

Petitioner states that the Notice of Allowance and Fee(s) Due was never received by applicant. Petitioner further states that a check of the USPTO database to ascertain when the Notice of Allowance and Fee(s) Due was sent, the database listed the application number as invalid. Petitioner has attached a copy of the USPTO database report showing that application number 10/309,104 is invalid.

A review of the application file reveals that application serial number 10/309,104 is a proper application number and the USPTO database list the application correctly as serial number 10/309,104.

Pursuant to M.P.E.P. §711.03(c), it is the petitioner's burden to demonstrate that the Notice of Allowance and Fee(s) Due was not in fact received at the correspondence address of record at the time it was mailed. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been received had it been received and docketed must be attached to and referenced in the 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),

Applicant has not provided the required statement attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. Further, applicant has not provided a copy of the docket record where the non-received Office action would have been received had it been received and docketed.

Since applicant has not made the requisite showing required under M.P.E.P §711.03(c), the holding of abandonment is proper.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision.

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

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

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LEONG C. LEI
PMB#1008
1867 YGNAOIO VALLEY ROAD
WALNUT CREEK CA 94598

JAN 30 2006

In re Application of	:	
CHANG	:	DECISION ON PETITION
Application No. 10/309,104	:	
Filed: December 4, 2002	:	
Tilte: Structure of a Socket	:	

This is a decision on the renewed petition filed March 29, 2005 to withdraw the holding of abandonment. A first petition filed under 37 C.F.R. § 1.181 to withdraw the holding of abandonment was dismissed on February 2, 2005. This renewed petition is also being considered under 37 C.F.R. § 1.181.

The petition is **DENIED**.

The application was held abandoned for failure to respond to the Notice of Allowance and Fee(s) Due within the statutory period of three months from the mailing date of July 11, 2003. The application became abandoned for failure to pay the issue fee.

Petitioner stated in the first petition that the Notice of Allowance and Fee(s) Due was never received by applicant. Petitioner also stated that a check of the USPTO database to ascertain when the Notice of Allowance and Fee(s) Due was sent, the database listed the application number as invalid. Petitioner attached a copy of the USPTO database report showing that application number 10/309,104 is invalid.

The first petition was dismissed because petitioner did not make the required statement attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. Further, petitioner did not submit a copy of the docket record where the non-received Office action would have been received had it been received and docketed.

A review of the written record indicates that applicant, as the first petitioner, attested to the non-receipt of the Notice of Allowance and Fee(s) Due at the correspondence address of record in Taipei, Taiwan. This renewed petition filed and signed by Leong C. Lei, a registered practitioner, is also attesting to the non-receipt of the Notice of Allowance and Fee(s) Due. The address of record for Leong C. Lei is Walnut Creek, California.

Petitioner Leong C. Lei states that the correspondence address of record in Taipei, Taiwan for the inventor, is in fact, a rented P.O. Box that belongs to him. Petitioner Leong C. Lei then states that the Notice of Allowance and Fee(s) Due was never received by him, a registered practitioner and has attached a copy of the docket record.

Pursuant to M.P.E.P. §711.03(c), it is the petitioner's burden to demonstrate that the Notice of Allowance and Fee(s) Due was not in fact received at the correspondence address of record at the time it was mailed. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been received had it been received and docketed must be attached to and referenced in the 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).

This renewed petition does not satisfy the required statement as set forth in M.P.E.P. §711.03(c). While petitioner has made the statement attesting to the fact that a search of the file jacket and docket records was made indicating that the Office action was not received, petitioner does not reference the attached docket record as evidence of non-receipt.

Further, petitioner does not satisfy his burden to demonstrate that the Notice of Allowance and Fee(s) Due was in fact not received at the correspondence address of record at the time it was mailed. The evidence shows that petitioner Leong C. Lei resides in California and not Taiwan and that mail is received by another at the rented P.O. Box. Further, the evidence shows that petitioner Leong C. Lei does not open all mail received at the rented P.O. Box and may have no knowledge of receiving the Notice of Allowance and Fee(s) Due at the time it was mailed.

For the above reasons, the petition to withdraw the holding of abandonment is denied.

Petitioner may wish to consider filing a petition under 37 CFR § 1.137(a) or (b) requesting that the application be revived. A petition under 37 CFR § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action; (2) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; (3) any terminal disclaimer required pursuant to 37 CFR § 1.137(c); and (4) the petition fee as set forth in 37 CFR § 1.17(m). No consideration to the substance of a petition will be given until this fee is received.

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

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

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LEONG C LEI
PMB # 1008
1867 YGNACIO VALLEY RD
WALNUT CREEK CA 94598

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FEB 07 2006

OFFICE OF PETITIONS

In re Application of		
Chi-Tsai Chang	:	
Application No. 10/309,104	:	DECISION ON
Filed: December 4, 2002	:	PETITION
Attorney Docket No. FP9101	:	

This is in response to the petition, filed January 26, 2006, to revive an unintentionally abandoned application under 37 CFR 1.137(b).

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

The above-identified application became abandoned for failure to timely pay the issue fee as required by the Notice of Allowance mailed on July 11, 2003. This notice set a statutory period for reply of three months. No issue fee having been received, the above-identified application became abandoned on October 12, 2003. A Notice of Abandonment was mailed on November 21, 2003.

With the instant petition, petitioner paid the petition fee together with the issue fee, and made the proper statement of unintentional delay.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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JENKINS, WILSON, TAYLOR & HUNT, P. A.
3100 TOWER BLVD
SUITE 1200
DURHAM, NC 27707

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OFFICE OF PETITIONS

In re Patent No. 6,850,595	:	
Issued: February 1, 2005	:	
Application No. 10/309,126	:	NOTICE
Filed: December 4, 2002	:	
Attorney Docket No. 421/170/5/3 CON	:	

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) 272-3282.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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P.O. BOX 1450
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BAKER BOTTS LLP
C/O INTELLECTUAL PROPERTY
DEPARTMENT
THE WARNER, SUITE 1300
1299 PENNSYLVANIA AVE, NW
WASHINGTON DC 20004-2400

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In re Patent of Ochiai	:	
Patent No. 6,932,729	:	Decision on Request for Reconsideration
Issue Date: August 23, 2005	:	of Patent Term Adjustment
Application No. 10/309,133	:	and Notice of Intent to Issue
Filing Date: December 4, 2002	:	Certificate of Correction
Attorney Docket No. 018842.1239	:	

This is a decision on the "PETITION FOR REINSTATEMENT OF PATENT TERM UNDER 37 CFR 1.705(d)," filed October 19, 2005. Patentee requests that the patent term adjustment indicated in the patent be corrected from fifty-eight (58) days to one hundred and one (101) 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 and one **(101)** days.

On August 23, 2005, the above-identified application matured into U.S. Patent No. 6,932,729. The instant request for reconsideration filed October 19, 2005 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 58 days. Patentee disputes the reduction of forty-three (43) days due to "Workflow-Drawings Finished" as no drawings were submitted after the Notice of Allowance was mailed in the case.

A review of the PALM calculations for this application reveals that the initial determination of PTA of 101 days was reduced by 43 days for applicant's submission of drawings after the mailing of the Notice of Allowance. See 37 CFR 1.704(c)(10). However, a review of the application record supports a conclusion that no drawings were filed in this application after the

mailing of the Notice of Allowance. The record supports a conclusion that any activity taken in the application with respect to the drawings was action undertaken by the Office and not pursuant to a filing by the applicant.

In view thereof, the patent term adjustment indicated in the patent should have been one hundred and one **(101)** days.

The fee under § 1.18(e) is required on petition under § 1.705(d) and will not be refunded. Nor will the fee be waived.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one hundred and one (101) days.

Telephone inquiries specific to this matter should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,932,729 B2

DATED : August 23, 2005

INVENTOR(S) : Yoshihiro Ochiai

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 58 days

Delete the phrase "by 58 days" and insert – by 101 days--

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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Application of :
Pawan Seth et al. :
Application No. 10/309,193 : ON PETITION
Filed: December 4, 2002 :
Attorney Docket No.: P0300593 :

This is a decision on the petition filed June 20, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed September 23, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested prior to the expiration of the application, this application became abandoned December 27, 2005. Accordingly, the Notice of Abandonment was mailed May 3, 2006.

The record reveals that a three month extension of time was filed with the instant petition, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1020.00 extension of time fee submitted with the petition on June 20, 2006 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 08-0750.

---

[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)).

Additionally, however, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

This matter is being referred to Technology Center 1615 for appropriate action on the amendment filed June 20, 2006.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

HARNESS DICKEY AND PIERCE, PLC
5445 CORPORATE DRIVE
TROY, MI 48098

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& GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Bernd Nickel et al.
Application No. 10/309,204
Filed: December 4, 2002
Attorney Docket No. ZIPH-008-103

This is a decision on the petition, filed February 8, 2007, under 37 CFR 1.181, to withdraw the holding of abandonment.

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

A non-Final Office Action was mailed July 14, 2006 which set a three month period for response. Petitioners argue that a proper response was filed January 19, 2006 with a three month extension of time request and provide a copy of a USPTO date stamped postcard receipt as proof of filing.

A search of the application file and the USPTO records reveals that in fact, an amendment and three month extension of time were timely filed on January 19, 2007 and that the response includes a certificate of mail date of January 16, 2007. A Notice of Abandonment however was mailed on January 26, 2007, because at the time the response and the three month extension of time filed January 19, 2007 had not been matched with the file.

Accordingly, the response was timely and the Notice of Abandonment mailed January 26, 2007 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter will be referred to Technology Center 1625 for appropriate action on the amendment filed January 19, 2007, a copy of which was submitted with the instant petition.

Additionally, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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PAUL, HASTINGS, JANOFSKY & WALKER LLP
P.O. BOX 919092
SAN DIEGO, CA 92191-9092

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OFFICE OF PETITIONS

In re Application of	:	
IMAMURA et al	:	
Application No.: 10/309,220	:	DECISION ON PETITION
Filing Date: December 4, 2002	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: KIX0175-US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 5, 2007, 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 November 15, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on February 16, 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 payment of the issue fee and publication fee is accepted as having been unintentionally delayed.

This application is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

BryanLin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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

Date : March 22, 2007

Patent No. : 7,119,836 B2
Inventor(s) : Silverbrook
Issued : October 11, 2006
Title : **PRINT ROLL FOR USE IN A CAMERA IMAGING SYSTEM**
Docket No. : BAL03US

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

Kia Silverbrook
Silverbrook Research Pty Ltd
393 Darling Street
Balmain NSW 2041
Australia

CBN/eme

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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

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OFFICE OF PETITIONS

In re Patent No. 7,119,836	:	
Issue Date: October 10, 2006	:	
Application No. 10/309,227	:	ON PETITION
Filed: December 4, 2002	:	
Attorney Docket No. BAL03US	:	

This is a decision on the petition filed April 22, 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**.

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

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In re Application of	:	
Pichel, Sacha	:	
Application No. 10/309,232	:	ON PETITION
Filed: December 4, 2002	:	
Attorney Docket No. 2560-0368	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 14, 2005, to revive the above-identified application.

The petition is **GRANTED.**

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1020.00 extension of time fee submitted with the petition was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This matter is being referred to Technology Center 3679 for further examination on the merits.

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

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 9/20/06

2 Serial/Patent # 10309232

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
✓	Extension of Time	7	1/14/05	$ 1020.00
	Notice of Appeal/Appeal	(fee submitted		$
	Petition	on 3/31/06)		$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 1020.00

8 TO BE REFUNDED BY:

	Treasury Check
✓	Credit Deposit A/C #:

9 50--3272

10 REASON:

	Overpayment
	Duplicate Payment
✓	No Fee Due (Explanation):

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Liana Chase TITLE: Pets. Examiner

SIGNATURE: L Chase PHONE: 232-06

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [illegible] DATE: 9/21/06

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

#3
DW

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

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MAR 21 2003

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TC 3600

Foley and Lardner
Suite 500
3000 K Street NW
Washington, D.C. 20007

Paper No. 3

In re application of
Harold E. Crane
Application No. 10/309,274
Filed: December 4, 2002
For: MEDICAL FACILITY BUILDING STRUCTURE

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

This is a decision on the petition submitted on December 4, 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 petition is **GRANTED**.

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

The evidence submitted with the petition is a signed statement from the applicant stating that he is at least 65 years of age.

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

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

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

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

SNM/tpl: 3/20/03

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JUL 2 2 2004

In re Application of HIROTA ET AL.	:	
Appl. No.: 10/309,283	:	**WITHDRAWAL FROM ISSUE**
Filed: December 04, 2002	:	*37 CFR 1.313*
For: PROCESS FOR MANUFACTURING GLASS OPTICAL ELEMENTS	:	

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.

Mary Lee
Director
Patent Examining Technology Center 1700

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

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EUGENE MAR
BACON & THOMAS PLLC
625 SLATERS LANE - 4TH FLOOR
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

NOTICE

In re Application of :
Lu-Yun Tai et al :
Application No. 10/309,285 :
Filed: December 4, 2002 :
Attorney Docket No. :

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 2100.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJr: 02-03

Paper 3

J. SCOT WICKHEM
CROMPTON, SEAGER & TUFTE, LLC
SUITE 895
331 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55401-2246

COPY MAILED

FEB 27 2003

OFFICE OF PETITIONS

In re Application of
Skujins, et al. :
Application No. 10/309,306 : DECISION ON PETITION
Filed: 3 December, 2002 :
Attorney Docket No.1001.1523101 :

This is the decision on the petition filed on 3 February, 2003, to correct a filing date and therefore considered under 37 C.F.R. §1.10.[1]

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[1]The regulations at 37 C.F.R. §1.10 provide:

§ 1.10 Filing of papers and fees by "Express Mail."

(a) 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).

(b) Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked. The paper(s) or fee(s) that constitute the correspondence should also include the "Express Mail" mailing label number thereon. See paragraphs (c), (d) and (e) of this section.

(c) 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.

(d) 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 the "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.

(e) Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original

The petition under 37 C.F.R. §1.10 is **GRANTED**.

The application was and is entitled to a filing date of 3 December, 2002, under the provisions of 37 C.F.R. §1.10.

The petition fee ($130.00) is waived and refunded to Deposit Account 50-0413, pursuant to the authorization of Petitioner.

BACKGROUND

The record indicates that:

- Petitioner alleges that this nonprovisional application was filed via Express Mail (US Postal Service (USPS) Express Mail No. EL901546945US) on 3 December, 2002;

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mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

(f) The Office may require additional evidence to determine if the correspondence was deposited as "Express Mail" with the USPS on the date in question.

[48 Fed. Reg. 2708, Jan. 20, 1983, added effective Feb. 27, 1983; 48 Fed. Reg. 4285, Jan. 31, 1983, paras. (a) & (c), 49 Fed. Reg. 552, Jan. 4, 1984, effective Apr. 1, 1984; paras. (a)-(c) revised and paras. (d) - (f) added, 61 Fed. Reg. 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (d) & (e) revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

* * *

(e) Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

(f) The Office may require additional evidence to determine if the correspondence was deposited as "Express Mail" with the USPS on the date in question.

[48 Fed. Reg. 2708, Jan. 20, 1983, added effective Feb. 27, 1983; 48 Fed. Reg. 4285, Jan. 31, 1983, paras. (a) & (c), 49 Fed. Reg. 552, Jan. 4, 1984, effective Apr. 1, 1984; paras. (a)-(c) revised and paras. (d) - (f) added, 61 Fed. Reg. 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (d) & (e) revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

- Petitioner received his receipt card setting forth the date of filing as 2 December, 2002;
- while the copy of the receipt for Express Mail No. EL901546945US reflects a 2 December, 2002, date handwritten on the face, the same receipt evidences a "3 December, 2002, USPS - 55401- Minneapolis, MN" date stamp;
- moreover, Petitioner submits a printout of the USPS "Track & Confirm" statement from the USPS website for USPS Express Mail No. EL901546945US setting forth:

  --"ACCEPTANCE, December 3, 2002, 5:27 p.m., MINNEAPOLIS, MN 55401";

  --"ARRIVAL AT UNIT, December 4, 2002, 9:54 a.m., WASHINGTON, DC 20599"; and

  --"Your item was delivered at 10:55 a.m. on December 04, 2002, in WASHINGTON, DC 20231 to PATENT OFFICE 20231."

CONCLUSION

Therefore, as to the instant nonprovisional application, Application No. 10/309,306, the Office of Initial Patent Examination is specifically instructed to:

- assign a filing date of 3 December, 2002; and
- issue a filing receipt specifying the filing date as that of 3 December, 2002.

The instant application is being forwarded to OIPE to be handled as set forth above before being forwarded for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

MILA KASAN, PATENT DEPT.
APPLIED BIOSYSTEMS
850 LINCOLN CENTRE DRIVE
FOSTER CITY CA 94404

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OFFICE OF PETITIONS

In re Patent No. 7,169,602	:	
Donald Sandell	:	
Issue Date: January 30, 2007	:	LETTER REGARDING
Application No. 10/309,311	:	PATENT TERM ADJUSTMENT
Filed: December 4, 2002	:	
Atty Docket No. 07414.0067-00000	:	

This is in response to the letter entitled PATENT TERM ADJUSTMENT (PTA) filed December 20, 2006, pursuant to patentee's duty of good faith and candor. Patentee notifies the Office that an IDS disclosing references cited in the counterpart foreign application was filed more than 100 days after receipt of the communication pursuant to 37 C.F.R. § 1.704(d). This letter was recently forwarded to the undersigned for consideration.

The request for correction of the patent term adjustment indicated in the patent is **DISMISSED**.

On January 30, 2007, the above-identified application matured into U.S. Patent No. 7,169,602, with a Patent Term Adjustment of 649 days. Prior to the issuance of the patent, applicant filed the instant letter suggesting that an additional period of reduction should have been entered for the filing of an IDS.

Patentee's attempt at candor is appreciated. However, a review of the record (and issued patent) confirms that the patent issued with a correct patent term adjustment of 649 days. A review of the record reveals that Information Disclosure Statements were filed in this application on March 20, 2003 and August 12, 2004. However, both of these IDSs were filed before

the first Office action under 35 U.S.C. 151, a restriction requirement mailed November 14, 2005. The filing of the IDSs did not constitute a failure to engage within the meaning of the rules.

Patentee is reminded that the purpose of 37 CFR 1.704(d) is to exempt IDSs filed under a certain circumstance from being considered a failure to engage within the meaning of 37 CFR 1.704(c)(6), (8), (9) and (10). As the IDSs filed in this application were not filed under the circumstances of 37 CFR 1.704(c)(6), (8), (9) or (10), recourse to the exemption set forth in 1.704(d) is unnecessary. There is no basis for entry of a period of reduction for the IDSs filed Mach 20, 2003 and August 12, 2004.

It is concluded that on the record before the undersigned, the patent issued with a correct patent term adjustment of 649 days. Patentee should advise the Office if the undersigned has overlooked an additional IDS for which a period of reduction is warranted.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Hunton & Williams, LLP
Intellectual Property Department
1900 K Street N.W.
Suite 1200
Washington, DC 20006-1109

In re Application of:
Christopher J. Barry et al
Serial No. 10/309,332
Filed: December 4, 2002
For: METHOD AND SYSTEM FOR PROVIDING ADVERTISING THROUGH CONTENT NODES OVER THE INTERNET

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed September 15, 2004 to make the above-identified application special.

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

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

The petition filed September 15, 2004 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:12/2/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Edward W. Callan
No. 705, PMB 452
3830 Valley Centre Drive
San Diego, CA 92130

MAILED

SEP 0 2 2004

Technology Center 2100

In re Application of:
Jens Erik SORENSEN, et al.
Application No. 10/309,384
Filed: November 25, 2002
For: MANAGEMENT AND PUBLICATION OF IDEAS FOR INVENTIONS ACCUMULATED IN A COMPUTER DATABASE

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c) and M.P.E.P. § 708.02, Section IV: Applicant's Age, filed June 1, 2004 to make the above-identified application special.

A grantable petition to make special under 37 C.F.R. § 1.102(c) and in accordance with M.P.E.P. § 708.02, Section IV must include a showing, as by a birth certificate or the applicant's statement, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a statement that the applicant, Jens Ole Sorensen, is over sixty five (65) years of age.

Accordingly, the petition is GRANTED. The application is being forwarded to the examiner for expedite prosecution.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUL 0 2 2008

OFFICE OF PETITIONS

In re Application of
Jens Erik Sorensen et al
Application No. 10/309,384
Filed: November 25, 2002
Attorney Docket No. 52-173-D2

ON PETITION

This is a decision on the petition, filed June 30, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee. This is also a decision on the petition under 37 CFR 1.78(a)(3), filed June 30, 2008, which is being treated under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to the prior-filed provisional applications set forth in the currently filed amendment.

The petition is **GRANTED**.

As to the petition under 37 CFR 1.313(c)(2):

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

Petitioner is advised that the issue fee paid on April 29, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

As to the petition under 37 CFR 1.78(a)(6):

A petition for acceptance of a claim for late priority 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 the expiration of the period specified in 37 CFR

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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).

1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition under 37 CFR 1.78(a)(6) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 119(e) and 37 CFR 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)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of the filing of the reference to the prior-filed provisional applications as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed 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 prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 119 and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Karen Creasy at (571) 272-3208.

This application is being referred to Technology Center Art Unit 2167 for consideration by the examiner of the claim under 35 U.S.C. § 119 and 37 CFR 1.78(a)(6) for the benefit of the prior-filed provisional applications.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/309,384	11/25/2002	2167	612	52-173-D2	15	1

CONFIRMATION NO. 4415

CORRECTED FILING RECEIPT

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

OC000000030774764

Date Mailed: 07/03/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please 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)

Jens Erik Sorensen, Rancho Santa Fe, CA;
Jens Ole Sorensen, Grand Cayman, CAYMAN ISLANDS;

Power of Attorney:
Edward Callan--24720
John Carson--34303
Raimond Salenieks--37924

Domestic Priority data as claimed by applicant

This application is a DIV of 10/072,071 02/08/2002 ABN
which is a CIP of 09/980,654 10/25/2001 ABN
which is a 371 of PCT/US01/25317 08/10/2001
which claims benefit of 60/224,944 08/11/2000
and claims benefit of 60/227,687 08/24/2000

Foreign Applications

If Required, Foreign Filing License Granted: 02/28/2003
The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/309,384**
Projected Publication Date: Request for Non-Publication Acknowledged
Non-Publication Request: Yes

**********WARNING**********

Applicant has requested non-publication, certifying that the invention disclosed in this application has not been and will not be the subject of an application filed in another country, or under a multilateral agreement, that

requires publication at eighteen months after filing; **and has also claimed** the benefit of an application filed in another country or under a multilateral agreement. Because the non-publication request and corresponding certification appears to be inconsistent with the priority claim, applicant is reminded that he/she has an obligation to promptly notify the Office and **rescind the non-publication request** if the invention disclosed in this application is the subject of an application filed in another country, or under a multilateral agreement, that requires eighteen-month publication.

**********WARNING**********

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

MANAGEMENT AND PUBLICATION OF IDEAS FOR INVENTIONS ACCUMULATED IN A COMPUTER DATABASE

Preliminary Class

707

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
www.uspto.gov

In re Patent No. 6,890,323	
Issue Date: May 10, 2005	**DECISION GRANTING**
Appl No.: 10/309,386	**PETITION**
Filed: December 03, 2002	*37 CFR 1.324*
For: ANTONELLI, PATRICK JOSEPH, *et al.*	

This is a decision on the petition filed April 17, 2006 to correct inventorship under 37 CFR 1.324.

The petition is granted.

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

Tatyana Zalukaeva
Supervisory Patent Examiner
Art Unit 3761
Technology Center 3761

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE, FL 32614-2950

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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JAN 09 2006

OFFICE OF PETITIONS

In re Application of	:	
Wilson et al.	:	
Application No. 10/309,388	:	
Filed: December 3, 2002	:	ON PETITION
Title of Invention:	:	
CATHETER WITH MULTIPLE	:	
ULTRASOUND RADIATING MEMBERS	:	

This is a decision on the Petition for Withdrawal of Holding of Abandonment Under 37 CFR 1.181(a), filed August 11, 2005. The delay in treating this petition is regretted.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Office communication mailed December 10, 2004. The Office communication set a shortened statutory reply period of one (1) month, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned January 11, 2005. A Notice of Abandonment was mailed July 28, 2005.

Applicant's Assertion

Applicant responds with the instant petition wherein Applicant avers that a timely reply was filed on January 6, 2005 using the Certificate of Mailing procedures under 37 CFR 1.8. In support of this assertion, Applicant provides a copy of a Response to Restriction Requirement.

A review of the Response to Restriction Requirement reveals that it was filed with an Amendment/Response Transmittal which includes a Certificate of Mailing dated January 6, 2005.

A review of Office records also reveals that the Response to Restriction Requirement was received in this Office on January 6,

2005, and mistakenly coded as part of the Information Disclosure Statement ("IDS"), filed January 11, 2005.

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

The copy of the Response to Restriction Requirement, filed with the instant petition on March 28, 2005, will be used for examination purposes.

No petition fee has been charged and none is due.

The application file is being referred to Technology Center Art Unit 3763 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
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/309,400	12/05/2002	Wayne Wielebski	01AB010A (ALBRP171USB)	5253

7590 08/15/2006

Susan M. Donahue
Rockwell Automation
1201 South Second Street
Milwaukee, WI 53204

EXAMINER
CRAWFORD, GENE O

ART UNIT	PAPER NUMBER
3651	#10

DATE MAILED: 08/15/2006

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. WIELEBSKI ET AL.	:	
Issue Date: March 2, 2004	:	**DECISION GRANTING**
Appl No.: 10/309,400	:	**PETITION**
Filed: December 05, 2002	:	*37 CFR 1.324*
For: CORRECTION OF INVENTORSHIP	:	
	:	
	:	
	:	

This is a decision on the petition filed July 24, 2006 to correct inventorship under 37 CFR 1.324.

The petition is granted.

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

Gene O. Crawford
Supervisory Patent Examiner
Art Unit 3651
Technology Center 3600

Susan M. Donahue
Rockwell Automation
1201 South Second Street
Milwaukee, WI 53204

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DATE: August 14, 2006
TO: Certificates of Correction Branch
FROM: Gene O. Crawford
SPE, Art Unit 3651
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6,701,214 as specified on the attached Certificate.

Gene O. Crawford, SPE
Art Unit 3651

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,701,214
Patented: March 2, 2004

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:

Wayne Wielebski	New Berlin, Wisconsin
John P. Caspers	Racine, Wisconsin
Gregory A. Majcher	Broadview Hieghts, Ohio
Steven P. Blech	Twinsburg, Ohio
Gregory J. Svetina	Streetsboro, Ohio

Gene O. Crawford
Supervisory Patent Examiner
Art Unit 3651

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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OFFICE OF PETITIONS

SAP/BLAKELY
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

In re Application of Bruns	:	
Application No. 10/309,409	:	Decision on Petition
Filing Date: December 2, 2002	:	
Attorney Docket No. 006741.P015	:	

This is a decision on the petition under 37 CFR 1.181, filed March 27, 2007, to withdraw the holding of abandonment.

The petition is **granted.**

This application was held abandoned for failure to timely respond to the non-final Office action of June 28, 2006, which set a three (3) month shortened statutory period for reply. Accordingly, absent payment for an extension of time, a reply was due on or before September 28, 2006.

A Notice of Abandonment was mailed on January 24, 2007. The Notice stated the application was abandoned due to the failure of petitioner to file any reply to the June 28, 2006 Office action.

A review of the electronic file wrapper indicates the presence of a reply filed October 2, 2006. The reply has a certificate of mailing date of September 27, 2006.

Since a reply was timely filed in response to the June 28, 2006 Office action, the application is not abandoned.

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

Technology Center Art Unit 3627 will be informed of the instant decision. Thereafter, the papers filed October 2, 2006, will be entered and considered by the examiner in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

United States Patent and Trademark Office

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

Frank C. Turner
CHEVRONTEXACO CORPORATION
Law Department
1111 Bagby, Suite 4040
Houston, TX 77002-2543

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SEP 15 2005

OFFICE OF PETITIONS

In re Application of
WILLIAM A. MALATAK ET AL.
Application No.: 10/309,481
Filed: 04 December 2002
Attorney Docket No.: X0003

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed 04 April 2005 to revive the application identified above.

The petition is **GRANTED.**

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) 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.

Since there is no indication that the person signing the instant petition was ever given a power of attorney or authorization of the 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 received future correspondence regarding this application, the appropriate power of attorney or authorization 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.

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 08 September 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on 09 December 2004.

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 Jeremy Fleming, at 571-272-3284.

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

Jeremy Fleming
Paralegal Specialist
Office of PCT Legal Administration

CC:
Philmore Colburn
CANTOR COLBURN LLP
55 Griffin Rd. S.
Bloomfield, CT 06002

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ALEXANDRIA, VA 22313-1450
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Paper No. 5

STEPHEN B. DAVIS
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON NJ 08543-4000

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MAY 19 2003

OFFICE OF PETITIONS

In re Application of	:
Yu, Wang, Sun, Ciani, Thuring,	:
Combrink, Meanwell, Zhang, and	: DECISION ACCORDING STATUS
Civiello	: UNDER 37 CFR 1.47(a)
Application No. 10/309,505	:
Filed: 4 December, 2002	:
Attorney Docket No. CT-2699 NP	:

This is in response to the petition under 37 CFR 1.47(a)[1] filed on 17 March, 2003.

The petition is **GRANTED**.

Petitioners have shown that non-signing inventor Yi Zhang cannot be found. Specifically, petitioners have shown that a letter was sent via first class mail to the last known addresses of the non-signing joint inventor was returned by the U.S. Post Office as undeliverable. Despite diligent efforts on the part of petitioners, the inventor could not be located.

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

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

---

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

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

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

(3) the petition fee; and

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

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.

DIWood

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

DEWITT ROSS & STEVENS S.C.
8000 EXCELSIOR DR
SUITE 401
MADISON, WI 53717-1914

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OFFICE OF PETITIONS

In re Application of
Periannan Senapathy
Application No. 10/309,516
Filed: December 4, 2002
Attorney Docket No. 34623.004C2

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 9, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

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

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

As to item (1), a petition to revive cannot be granted where there is an outstanding requirement. In the instant case, there was no response to the outstanding official action submitted. Accordingly, the petition to revive cannot be granted until such time as the outstanding response requirement is received.

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

By fax: (703) 872-9306

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

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

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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DEWITT ROSS & STEVENS S.C.
8000 EXCELSIOR DR
SUITE 401
MADISON, WI 53717-1914

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APR 2 8 2004
OFFICE OF PETITIONS

In re Application of	:	
Periannan Senapathy	:	
Application No. 10/309,516	:	ON PETITION
Filed: December 4, 2002	:	
Attorney Docket No. 34623.004C2	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 15, 2004, to revive the above-identified application.[1]

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being referred to Technology Center AU 1634.

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

[1] At the time the decision rendered on the petition filed January 9, 2004, the reply has not been associated with the instant application file.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Dec. 5, 2005

TO SPE OF : ART UNIT 2817 (*Robert Pascal*)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,937,109 10/309543

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 Title change by PTO. Your denial or approval decision is needed below.

sp STACY POWELL

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 x120

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

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

Comments:

The title of the invention was corrected at allowance by the examiner through an informal examiners amendment (see BIB DATA SHEET dated 21 Dec 2004) to better reflect applicants' invention.

SPE 2817 **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

NORRIS MCLAUGHLIN & MARCUS
P.O. BOX 1018
SOMERVILLE, NJ 08876

COPY MAILED

JAN 0 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Constantine N. Manis et al	:	
Application No. 10/309,567	:	ON PETITION
Filed: December 4, 2002	:	
Attorney Docket No. 102362-011 US	:	

This is a decision on the petition under 37 CFR 1.182 filed December 17, 2004, to correct the assignee data on Form PTOL-85(b).

The petition is **granted**.

If the printing of the patent has progressed to the point where the corrected attorney data cannot be printed on the patent, petitioner may request a certificate of correction pursuant to the provisions of 37 CFR 1.322(a).

This matter is being referred to the Publishing Division to be processed into a patent.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE 2/17/09

Paper No.: —

TO SPE OF : ART UNIT 3731

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/309585 Patent No.: 7115132 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

ANHTUAN T. NGUYEN
SUPERVISORY PATENT EXAMINER
SPE 3/21/09

3731
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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MAY 01 2009

OFFICE OF PETITIONS

In re Patent No. 7,115,132	:	
Issued: October 3, 2006	:	
Application No. 10/309,585	:	ON PETITION
Filed: December 4, 2002	:	
Attorney Docket No. SPINE 3.0-437	:	
CIPCIPCIPCIPCIPCIPCON I		

This is a decision on the petition under 37 CFR §§ 1.78(a)(3), filed February 2, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 for the benefit of the prior-filed nonprovisional applications set forth in the amendment filed July 12, 2005.

The petition is **DISMISSED AS MOOT**.

The instant pending nonprovisional application was filed on December 4, 2002. A reference to the prior-filed applications was included in the first sentence of the specification following the title. However, petitioner wishes to correct the relationships of each prior-filed application to the instant application.

As stated in MPEP 201.11(V):

A petition under 37 CFR 1.78(a)(3) and the surcharge would not be required for correcting a timely submitted benefit claim for the following situations:

> (A) Changing the relationship of the applications (e.g., changing from "continuation" or "divisional" to "continuation-in-part" or from "continuation-in-part" to "continuation" or "divisional");
>
> (B) Changing the filing date of a prior-filed nonprovisional or provisional application; and
>
> (C) Changing a benefit claim of a prior-filed provisional application under 35 U.S.C. 120 (e.g., "This application is a continuation of prior-filed provisional application No. ---") to a benefit claim of the same provisional application under 35 U.S.C. 119(e) (e.g., "This application claims the benefit of prior-filed provisional application No. ---") during the pendency of the later-filed application. Note, however: If the later-filed application has issued as a patent, the correction cannot be made by a certificate of correction and would not be effective in a reissue application because the term of a patent is measured from the

prior application's filing date and removing the benefit claim under 35 U.S.C. 120, 121, or 365(c) would have the effect of lengthening the term of the patent.

Since the only corrections to the priority claims in the original specification are changes the relationships of the applications, a petition under 37 CFR 1.78(a)(3) is not required.

In view of the unnecessary petition, the surcharge fee of $1410.00 will be credited to petitioner's deposit account.

A Corrected Filing Receipt, with the desired relationship changes, is enclosed.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/309,585	12/04/2002	3731	670	F-264	12	1

CONFIRMATION NO. 5725

CORRECTED FILING RECEIPT

530
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

OC000000035620326

Date Mailed: 04/22/2009

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

Applicant(s)

Joseph P. Errico, Greenbrook, NJ;
Michael W. Dudasik, Nutley, NJ;
Rafail Zubok, Midland Park, NJ;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CIP of 10/282,356 10/29/2002 PAT 7,169,182
which is a CIP of 10/256,160 09/26/2002 PAT 6,989,032
which is a CIP of 10/175,417 06/19/2002
which is a CIP of 10/151,280 05/20/2002
which is a CIP of 09/970,479 10/04/2001 PAT 6,669,730
and is a CIP of 10/140,153 05/07/2002 ABN
and said 09/970,479 10/04/2001
is a CIP of 09/968,046 10/01/2001 ABN
and said 10/140,153 05/07/2002
is a CIP of 09/970,479 10/04/2001 PAT 6,669,730
and is a CIP of 10/128,619 04/23/2002 PAT 6,863,689
which is a CIP of 09/906,119 07/16/2001 PAT 6,607,559
and is a CIP of 09/982,148 10/18/2001 PAT 6,673,113

Foreign Applications

If Required, Foreign Filing License Granted: 01/13/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/309,585**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

STATIC TRIALS AND RELATED INSTRUMENTS AND METHODS FOR USE IN IMPLANTING AN ARTIFICIAL INTERVERTEBRAL DISC

Preliminary Class

606

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

NOT GRANTED

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

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PATENT DEPARTMENT
98 SAN JACINTO BLVD., SUITE 1500
AUSTIN, TX 78701-4039

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MAR 27 2006

OFFICE OF PETITIONS

In re Application of :
Seo Hong Yoo :
Application No. 10/309,603 : ON PETITION
Filed: December 4, 2002 :
Attorney Docket No. APAP31191-A-III

This is a decision on the petition filed, March 20, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 20, 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 1618 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).

#6

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OFFICE OF PETITIONS

KURT BRISCOE
NORRIS, MCLAUGHLIN & MARCUS, P.A.
220 EAST 42ND STREET, 30TH FLOOR
NEW YORK, NY 10017

In re Application of
Steinkasserer et al.
Application No. 10/309,611
Filed: December 4, 2002
Attorney Docket No.:
100725-39/Kreisler 1110

DECISION ON PETITION

This is a decision on the "Petition for Filing Date," filed March 6, 2003, requesting that the Commissioner exercise his authority and accept the above-identified application as filed without drawings, and accord the application the original filing date of December 4, 2002, inasmuch as the omitted drawings are not, in fact, necessary for understanding of the subject matter sought to be patented.

Application papers in the above-identified application were deposited on December 4, 2002. However, on January 6, 2003, the Initial Patent Examination Division mailed applicants a "Notice of Incomplete Nonprovisional Application," stating that the application papers had not been accorded a filing date because the application was deposited without drawings.

In response, applicants timely filed the instant petition, along with a substitute specification deleting all references to the drawings. Applicants acknowledge that drawings were not present in the application on filing. Petitioners argue that based on the subject matter sought to be patented, drawings are not necessary under 35 U.S.C. 111. Accordingly, the application as filed is entitled to a filing date of December 4, 2002.

It is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). See MPEP § 601.01(f). A review of the original application papers filed December 4, 2002, reveals that they contained at least one method claim. Thus, the application, containing a specification and at least one claim was complete within the meaning of 37 CFR § 1.53(b), and entitled to a filing date of December 4, 2002. The application record does not indicate that an examiner has reviewed the application and determined that despite the presence of method claims, drawings are necessary.

Accordingly, the petition is **GRANTED** to the extent that the nonprovisional application will be accorded a filing date of

December 4, 2002 with no drawings as a part of the original disclosure of the application.

However, in regards to withdrawing the Notice, MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, ... directed to subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

And, MPEP § 601.01(g) further provides that:

> If the application is filed without all of the drawing figure(s) referred to in the specification, ..., OIPE will mail a "Notice of Omitted Item(s)" indicating that the application papers so deposited have been accorded a filing date, but are lacking some of the figures of the drawings described in the specification.

As the specification in the instant nonprovisional application contained references to drawing figures, mailing of a Notice requiring submission of those drawings was appropriate. The Office should have mailed a "Notice of Omitted Items" rather than a "Notice of Incomplete Provisional Application." Nonetheless, the filing of a petition was necessary due to the condition of the application on filing. Accordingly, the petition fee is required and will not be refunded.

This application is being forwarded to the Office of Initial Patent Examination for further processing **with a filing date of December 4, 2002** and for indication in Office records, as appropriate, that "0" sheets of drawings were present on filing.

Applicant will receive appropriate notifications regarding any missing items or fees owed, and other information in due course from OIPE.

Telephone inquiries specific to this decision may be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Nancy Johnson
Petitions Attorney
Office of Petitions

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OFFICE OF THE DIRECTOR
TC 3600

Grossman & Flight, LLC
20 North Wacker Drive
Suite 4220
Chicago, IL 60606

In re Application of
Robert Stolz, et al.
Application No. 10/309,614
Filed: December 4, 2002
For: SADDLE STITCH FINISHING LINE HAVING A DEVICE FOR FORMING A SQUARE BACK BOOK

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicants' petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on December 6, 2004.

The petition is **DISMISSED**.

A review of the file record reveals that a Restriction/Election requirement was mailed February 26, 2004, setting a one-month shortened statutory period for response. Since no reply was received from applicant before the expiration of the six-month statutory period for reply, the application became abandoned at midnight on August 26, 2004. A Notice of Abandonment was mailed on November 1, 2004.

The present petition indicates that a response was filed by mail on March 26, 2004. In support thereof, petitioner submits a copy of a response that includes a Certificate of Mailing signed by Saeid Mirsafian, and dated March 26, 2004. Applicants also submit a post card receipt showing a USPTO date stamp of March 29, 2004. Since the postcard receipt has a date stamp outside the period for reply, which ended at midnight on March 26, 2004, and no extensions of time were purchased, applicants cannot rely on the postcard receipt and must rely on the Certificate of Mailing, dated March 26, 2004, to show that the response was timely filed.

Any petition to withdraw the holding of abandonment based upon a Certificate of Mailing must provide the following:

(1) A copy of the original response bearing a signed Certificate of Mailing which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) <u>by the person who signed the certificate</u> attesting to the personal knowledge of mailing the response on the date indicated on the Certificate of Mailing (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above, the petition fails under requirement (2) to provide a proper statement under 37 CFR 1.8(b)(3) attesting to personal knowledge of sending the original response by mail on the date indicated on the certificate, by the person who signed the certificate, in this instance Saeid Mirsafian.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181."

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

SNM/rwg: 2/09/05

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SEP 15 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Fred H. Zollinger, III
SAND & SEBOLT
Aegis Tower
4940 Munson Street, NW, Suite1100
Canton OH 44718-3615

In re Application of:
Stephen BROOKS, et al.
Application No. 10/309,615
Filed: December 3, 2002
For: METHOD AND SYSTEM FOR IMPROVED SECURITY

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Petition To Make Special under MPEP 708.02, XI: Invention for Countering Terrorism, filed August 4. 2003.

A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with MPEP 708.02, XI, for an invention which contributes to the countering of terrorism, must include the petition fee under 37 CFR 1.17(i). The petition must also be accompanied by a statement explaining how the invention contributes to countering terrorism. Examples of the types of technology for countering terrorism are set forth in MPEP 708.02, XI as including, but not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

The statements made in the petition show how the technology of the instant application directly contributes to the countering of terrorism.

Accordingly, the petition is **GRANTED**.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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4940 MUNSON STREET, N.W.
SUITE 1100
CANTON, OH 44718-3615

MAIL

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of:
Stephen Brooks, et al.
Application No. 10/309,615
Filed: December 3, 2002
For: METHOD AND SYSTEM FOR IMPROVED SECURITY

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as attorney/agent and change of correspondence address filed on August 20, 2004

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

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

All attorneys/agents associated with Customer Number 27542 have been 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
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc: Fred H. Zollinger, III
6370 Mt. Pleasant Avenue, N.W.
P.O. Box 2368
North Canton, OH 44720

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4417 LANCASTER PIKE
WILMINGTON, DE 19805

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OFFICE OF PETITIONS

In re Application of :
Rebecca E. Cahoon :
Application No. 10/309,629 :
Filed: December 4, 2002 :
Attorney Docket No. BB1155USCIP :

ON PETITION

This is a decision in response to the petition, filed June 4, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Jeffrey B. Safran appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that petitioner is authorized to represent the particular party on whose behalf he acts.

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a final Office action mailed August 10, 2006. On June 4, 2007, the present petition was filed. A Notice of Abandonment was subsequently mailed on August 6, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay[1].

This application is being referred to Technology Center AU 1638 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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4417 LANCASTER PIKE
WILMINGTON, DE 19805

Mail Date: 04/23/2010

Applicant	: Rebecca E. Cahoon	: DECISION ON REQUEST FOR
Patent Number	: 7659450	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/309,629	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/04/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **773** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

DEWITT ROSS & STEVENS S.C.
8000 EXCELSIOR DR
SUITE 401
MADISON WI 53717-1914

In re Application of	:	
Klaviniskis, et al.	:	
Application No. 10/309,635	:	DECISION
Filing Date: 4 December, 2002	:	
Attorney Docket No.: 78104.051	:	

This is a decision on the petition filed on 27 March, 2006, finally supplemented on 23 February, 2007, alleging unintentional delay under 37 C.F.R. §1.137(b).

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 29 June, 2005, with reply due under a non-extendable deadline on or before 29 September, 2005;

- on 29 September, 2005, Petitioner filed *inter alia*, an after-final amendment, which Petitioner as one registered to practice before the Office is aware is not of right and was not a proper reply,[1] and the Examiner mailed an Advisory Action on 31 January, 2006;

[1] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission). (See: MPEP §711.03(c).)

- the instant application went abandoned after midnight 29 September, 2005;
- it does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed;
- on 27 March, 2006, Petitioner filed the instant petition (with fee), reply in the form of a copy of the after-final amendment filed originally on 29 September, 2005–to which the Examiner refused entry–and Petitioner made the statement of unintentional delay;
- Petitioner apparently took no further action until 23 February, 2007, when he filed a request for continued examination (RCE) with fee and pointed to the prior amendments as the submission under 37 C.F.R.§1.114,.

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]

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

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

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

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

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document,

STATUTES, REGULATIONS AND ANALYSIS

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

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

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

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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.

[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.

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

As to the Allegations
of Unintentional Delay

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

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

CONCLUSION

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

The instant application is released to Technology Center 1600 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

[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] 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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MACPHERSON KWOK CHEN & HEID LLP
1762 TECHNOLOGY DRIVE, SUITE 226
SAN JOSE CA 95110

COPY MAILED

AUG 0 1 2006

OFFICE OF PETITIONS

In re Patent No. 6,930,634 :
Issue Date: August 16, 2005 :
Application No. 10/309,647 :
Filed: December 4, 2002 :
Patentee(s):Leon Kuo-Liang Peng et al :

NOTICE

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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FAEGRE & BENSON
PATENT DOCKETING
2200 WELLS FARGO
90 SOUTH 7TH STREET
MINNEAPOLIS, MN 55402-3901

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NOV 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Frederick W. LeBlanc et al	:	
Application No. 10/309,653	:	DECISION ON PETITION
Filed: December 3, 2002	:	TO WITHDRAW
Attorney Docket No. 303995	:	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 25, 2005.

The request is **APPROVED**.

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

The request was signed by Douglas M. Hamilton on behalf of all attorneys of record who are associated with customer No. 35657.

All attorneys/agents associated with the Customer Number 35657 have been withdrawn.

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

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

This matter is being referred to Technology Center AU 2611 for examination in due course.

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: JEFF BUCKWALTER
24858 STANLEY PARK ROAD
EVERGREEN, CO 80439

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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Paper No. 7

MAIL

MAR 24 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

LaRiviere, Grubman & Paune, LLP
P.O. Box 3140
Monterey, CA 93942

In re Application of
Aubry, et al.

Application No. 10/309,662
Filed: December 03, 2002
For: APPARATUS AND METHOD FOR STORING AND RETRIEVING DIGITAL REAL TIME SIGNALS IN THEIR NATIVE FORMAT

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on February 09, 2004.

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

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

All attorneys/agents of record are withdrawn.

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

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

CC: nNovia, Inc.
1620 Oakland Road, Suite D200
San Jose, CA 95131

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 2 0 2007

OFFICE OF PETITIONS

WELSH & KATZ, LTD
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

In re Application of
Takayuki Matsushima, et. al.
Application No. 10/309,688
Filed: December 4, 2002
Attorney Docket No. 8839-88941

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on April 27, 2007, to revive the above-identified application.

The above application became abandoned for failure to timely file a proper reply to the final Office action mailed on August 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 a Request for Continued Examination (RCE) under 37 CFR 1.114, with the $790 filing fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The application is being revived for consideration of the RCE filed on April 27, 2007.

This application file is being referred to Technology Center Art Unit 1712, for entry of the previously submitted amendment filed on March 2, 2007.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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RAAFAT SHALTOUT
MCDONNELL BOEHNEN HULBERT & BERGHOFF
32ND FLOOR
300 S. WACKER DRIVE
CHICAGO, IL 60606

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JAN 19 2006

OFFICE OF PETITIONS

In re Application of :
Jyoti Sharma, et al. :
Application No. 10/309,720 :
Filed: December 4, 2002 :
Attorney Docket No.: 01-1026-A :
:

ON PETITION

This is a decision on the petition, filed January 17, 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 5, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 1773 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT
AND TRADEMARK OFFICE

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

Date Mailed: February 6, 2009
Patent No. :7,459,068 B2
Ser. No. :10/309729
Inventor(s) :Thomas A. Davis
Title :WATER DESALINATION PROCESS AND APPARATUS

Request for Certificate of Correction

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

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request in this matter is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

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

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

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

By fax: (571) 273-0025
ATTN: Office of Petitions

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

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 116

Leonard D. Bowersox
Kilyk & Bowersox, PLLC
3925 Chain Bridge Rd., Ste. D-401
Fairfax, VA 22030

MD/mt

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

LEONARD D. BOWERSOX
KILYK & BOWERSOX, P.L.L.C.
3925 CHAIN BRIDGE ROAD
SUITE D-401
FAIRFAX, VA 22030

In re Patent No. 7,459,068	:	
Issue Date: December 2, 2008	:	
Application No. 10/309,729	:	ON PETITION
Filed: December 4, 2002	:	
Attorney Docket No. 5010-062-01	:	

This is a decision on the petition filed March 27, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

OIPE JC102 JAN 0 6 2004 PATENT & TRADEMARK OFFICE

Receipt

Please type a plus sign (+) inside this box → +

PTO/SB/21 (08-00)
Approval for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission	1

Application Number	10/309,734
Filing Date	Dec 3, 2002
First Named Inventor	Hintz, Nathaniel
Group Art Unit	
Examiner Name	
Attorney Docket Number	HINTZ02-01

ENCLOSURES *(check all that apply)*

- ☐ Fee Transmittal Form
  - ☐ Fee Attached
- ☐ Amendment / Reply
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Response to Missing Parts/ Incomplete Application
  - ☐ Response to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Assignment Papers *(for an Application)*
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s) _____
- ☐ After Allowance Communication to Group
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to Group *(Appeal Notice, Brief, Reply Brief)*
- ☐ Proprietary Information
- ☐ Status Letter
- ☒ Other Enclosure(s) *(please identify below):*

Request to Rescind Previous Nonpublication Request
Postcard

Remarks

RECEIVED
FEB 0 5 2004
GROUP 3600

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm *or* Individual name	Robert Ryan Morishita Anderson & Morishita, L.L.C.
Signature	
Date	December 24, 2003

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop PGPub, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22213-1450 on this date: 12/24/2003

December 24, 2003

Typed or printed name	Robert Ryan Morishita		
Signature		Date	December 24, 2003

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents. Washington, DC 20231.

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JAN 0 6 2004
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PTO/SB/36 (10-01)
Approved for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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REQUEST TO RESCIND PREVIOUS NONPUBLICATION REQUEST 35 U.S.C. 122(b)(2)(B)(ii)

Application Number	10/309,734
Filing Date	12/3/2002
First Named Inventor	Nathaniel Hintz
Title	Torque Induced Propulsion System
Atty Docket Number	HINTZ02-01
Group Art Unit	
Examiner	

I hereby **rescind** the previous request that the above-identified application not be published under 35 U.S.C. 122(b).

December 24, 2003
Date

Signature

Robert Ryan Morishita
Typed or printed name

RECEIVED
FEB 0 5 2004
GROUP 3600

This request must be signed in compliance with 37 CFR 1.33(b).

Note: Filing this rescission of a previous nonpublication request is considered the notice of a subsequent foreign or International filling required by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) if this rescission is filed no later than forty-five days (45) days after the date of filing of such foreign or international application. See 37 CFR 1.137(f) if a notice of subsequent foreign or International filing required by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is **not** filed within forty-five days (45) days after the date of filing of the foeign or international application.

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop PGPub, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22213-1450: December 24, 2003

Name (Print/Type)	Robert Ryan Morishita		
Signature		*Date*	December 24, 2003

Burden Hour Statement: This collection of information is required by 37 CFR 1.213(b). The information is used by the public to rescind a previously filed request that an application not be published under 35 U.S.C. 122(b) (and the PTO to process that rescission). Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 6 minutes to complete. This 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/3/2008

TO SPE OF : ART UNIT 1700 (1755)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,911,075

Attn: A.J.Green

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

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

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

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

Ok to enter changes to inventors as req. in COC, paper 12? In eDan/Madras.

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

Thank You For Your Assistance

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

[X] **Approved** — **All** changes apply.

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

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

Comments:

OK TO ENTER CHANGES

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/3/2008

TO SPE OF : ART UNIT 1700 (1755)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,911,075

Attn: A.J.Green

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

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

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

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

Ok to enter changes to inventors as req. in COC, paper 12? In eDan/Madras.

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

Thank You For Your Assistance

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

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

Comments:

_____

_____

_____

_____

_____

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JUN 02 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Ilya Zborovsky
6 Schoolhouse Way
Dix Hills NY 11746

In re Application of
Eli Zhadanov et al.
Application No. 10/309,743
Filed: December 4, 2002
For: DEVICE FOR HOLDING SHOWER ACCESSORIES

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicants' letter filed March 22, 2004 in the United States Patent and Trademark Office, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition is **DISMISSED**.

A review of the file record reveals that a Notice of Abandonment was mailed February 10, 2004 because of applicants' failure to reply to the non-final Office action mailed July 9, 2003.

Petitioner has provided a "copy" of a response to the non-final Office action that was allegedly filed on November 9, 2003 by mail with a Certificate of Mailing dated November 9, 2003.

Any petition to withdraw the holding of abandonment based upon a Certificate of Mailing must provide the following:

(1) A copy of the original response bearing a signed Certificate of Mailing which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of mailing the original response on the date indicated on the Certificate of Mailing (see 37 CFR 1.8 and MPEP 512).

The petition fails under requirements (1) noted above.

As to requirement (1), the "copy" of the response provided bears an original signature (i.e., water-soluble ink) for both the amendment and the certification. Thus, it appears that these papers are originals and not copies of originals.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181."

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

RAR/mjz: 5/21/04

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Commissioner for Patents
United States Patent and Trademark Office
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ILYA ZBOROVSKY
6 SCHOOLHOUSE WAY
DIX HILLS NY 11746

COPY MAILED

APR 12 2007

OFFICE OF PETITIONS

In re Application of Eli Zhadanov et al Application No. 10/309,743 Filed: December 4, 2002 For: DEVICE FOR HOLDING SHOWER ACCESSORIES	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed December 12, 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 and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of January 3, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Patent Publication.

Karen Creasy
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

MAILED

APR 06 2009

OFFICE OF PETITIONS

Ilya Zborovsky
6 Schoolhouse Way
Dix Hills, NY 11746

In re Application of	:	
Eli Zhadanov et al.	:	
Application No. 10/309,743	:	DECISION ON PETITION
Filed: December 4, 2002	:	TO MAKE SPECIAL UNDER
Attorney Docket No.	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 20, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **DISMISSED AS MOOT**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition is not necessary. The petition has received a patent number and no further prosecution is warranted.

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

Kimberly Inabinet
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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PETER F. WEINBERG
GIBSON DUNN AND CRUTCHER LLP
SUITE 4100
1801 CALIFORNIA STREET
DENVER CO 80202

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DEC 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Robert H. Allen et al	:	
Application No. 10/309,748	:	DECISION DISMISSING PETITION
Filed: December 4, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 63716-00017	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 17, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional Application No. 08/693,515, filed August 2, 1996.

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 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 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.

Before the petition can be granted, petitioner must submit a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3).[1]

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

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GIBSON DUNN AND CRUTCHER LLP
SUITE 4100
1801 CALIFORNIA STREET
DENVER CO 80202

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MAR 0 9 2007

OFFICE OF PETITIONS

In re Application of	:	
Robert H. Allen et al	:	
Application No. 10/309,748	:	DECISION DISMISSING PETITION
Filed: December 4, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 63716-00017	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed January 7, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional Application No. 08/693,515, filed August 2, 1996.

The petition is again **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 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 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.

Before the petition can be granted, petitioner must submit a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3).[1]

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

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Post Office Box 1450
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Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

UNITED STATES PATENT AND TRADEMARK OFFICE

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GIBSON DUNN AND CRUTCHER LLP
SUITE 4100
1801 CALIFORNIA STREET
DENVER CO 80202

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OFFICE OF PETITIONS

In re Application of	:
Robert H. Allen et al	:
Application No. 10/309,748	: DECISION ON PETITION
Filed: December 4, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 63716-00017	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed June 11, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **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 application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled

to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. 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 1648 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed Application No. 08/693,515, filed August 2, 1996.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/309,748	12/04/2002	1648	482	63716-00017	16	4

CONFIRMATION NO. 7792

CORRECTED FILING RECEIPT

22334
PETER F WEINBERG
GIBSON DUNN AND CRUTCHER LLP
SUITE 4100
1801 CALIFORNIA STREET
DENVER, CO 80202

OC000000027292925

Date Mailed: 12/14/2007

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)

Robert H. Allen, Denver, CO;
Sally P. Stabler, Denver, CO;

Power of Attorney:
Glenn Beaton--30995

Domestic Priority data as claimed by applicant

This application is a CON of 09/793,214 02/26/2001 PAT 6,528,496
which is a CON of 09/273,754 03/22/1999 PAT 6,297,224
which is a CON of 09/012,955 01/26/1998 PAT 6,207,651
which is a CON of 08/693,515 08/02/1996 PAT 5,795,873
which is a DIV of 07/999,499 12/29/1992 PAT 5,563,126

Foreign Applications

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/309,748**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Method for treatment of neuropsychiatric disorders

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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DENVER, CO 80202

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DEC 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Robert H. Allen et al :
Application No. 10/309,752 : DECISION ON PETITION
Filed: December 4, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 63716-00016

This is a decision on the petition, filed June 18, 2004 and supplemented on November 17, 2004, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on December 4, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210.

This matter is being forwarded to Technology Center Art Unit 1648 for appropriate action on the amendment filed June 18, 2004 and supplemented November 17, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Frances Hicks

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

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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DENVER, CO 80202

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DEC 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Robert H. Allen et al :
Application No. 10/309,752 : DECISION ON PETITION
Filed: December 4, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 63716-00016

This is a decision on the petition, filed June 18, 2004 and supplemented on November 17, 2004, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on December 4, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210.

This matter is being forwarded to Technology Center Art Unit 1648 for appropriate action on the amendment filed June 18, 2004 and supplemented November 17, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Frances Hicks

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

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. None

PETER F WEINBERG
GIBSON DUNN AND CRUTCHER LLP
SUITE 4100
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DENVER CO 80202

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JAN 30 2006

OFFICE OF PETITIONS

In re Application of :
Robert H. Allen et al. :
Application No. 10/309,761 : DECISION ON PETITION
Filing Date: December 4, 2002 :
Attorney Docket No. 63716-00018 :
Title: METHOD FOR PREVENTING :
VASCULAR DISEASE :

This is a decision on the petition under 37 C.F.R. §1.78(a)(3), filed July 1, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 C.F.R. 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 C.F.R. 1.78(a)(2)(ii). In addition, the petition under 37 C.F.R. 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 C.F.R.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 C.F.R. 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The present petition does not comply with item (3).

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 C.F.R. 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 C.F.R. 1.78(a)(3).

The petition complies with the first and second requirements for a grantable petition under 37 C.F.R. 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 C.F.R. 1.78(a)(2)(iii), and; (2) the surcharge fee required by 37 C.F.R. 1.17(t) has been submitted.

However, the third requirement of 37 C.F.R. §1.78(a)(3) has not been met, in that the petition does not contain a statement of unintentional delay, not does it contain any statement which could be construed as such. Therefore, this petition cannot be granted.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[1], hand-delivery[2], or facsimile[3].

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.

Frances Hicks

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

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

PETER F WEINBERG
GIBSON DUNN AND CRUTCHER LLP
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1801 CALIFORNIA STREET
DENVER CO 80202

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DEC 0 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Robert H. Allen et al.	:	
Application No. 10/309,761	:	DECISION ON RENEWED
Filing Date: December 4, 2002	:	PETITION
Attorney Docket No. 63716-00018	:	
Title: METHOD FOR PREVENTING	:	
VASCULAR DISEASE	:	

This is a decision on the renewed petition under 37 C.F.R. §1.78(a)(3), filed March 17, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the original petition.

The original petition was filed on July 1, 2005, and was dismissed via the mailing of a decision on January 30, 2006.

This renewed petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 C.F.R. 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 C.F.R. 1.78(a)(2)(ii). In addition, the petition under 37 C.F.R. 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 C.F.R.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 C.F.R. 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 original petition complied with items (1) and (2) above, but failed to contain a statement of unintentional delay.

With this renewed petition, Petitioner has asserted that the statement "appears on Page 2, Paragraph 2 of the Petition." Petitioner has submitted what is purported to be a copy of the original petition, however it is noted that the petition of record in the electronic file differs from the one he has submitted with this renewed petition. The original petition does not contain the paragraph which Petitioner appears to have added on renewed petition.

Nevertheless, with this renewed petition, Petitioner has met all requirements of Rule §1.78(a)(3). 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 application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 C FR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 1648 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.

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.

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

Encl. Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/309,761	12/04/2002	1648	590	63716-00018	11	32	4

CONFIRMATION NO. 7571

CORRECTED FILING RECEIPT

OC000000021442976

22334
PETER F WEINBERG
GIBSON DUNN AND CRUTCHER LLP
SUITE 4100
1801 CALIFORNIA STREET
DENVER, CO 80202

Date Mailed: 12/01/2006

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)

Robert H. Allen, Denver, CO;
Sally P. Stabler, Denver, CO;

Power of Attorney:

Glenn Beaton--30995

Domestic Priority data as claimed by applicant

This application is a CON of 09/793,214 02/26/2001 PAT 6,528,496
which is a CON of 09/273,754 03/22/1999 PAT 6,297,224
which is a CON of 09/012,955 01/26/1998 PAT 6,207,651
which is a CON of 08/693,515 08/02/1996 PAT 5,795,873
which is a DIV of 07/999,499 12/29/1992 PAT 5,563,126

Foreign Applications

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/309,761

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Method for preventing vascular disease

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 2023
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Paper No. 6

Richard E. Brown
FENWICK & WEST LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

MAILED
AUG 1 8 2003
Technology Center 2100

In re Application of:	)	
Peter Yared	)	
Application No. 10/309,773	)	**DECISION ON REQUEST FOR**
Filed: December 3, 2002	)	**WITHDRAWAL AS ATTORNEY**
For: DISTRIBUTED NETWORK IDENTITY	)	

This is a decision on the Request To Withdraw from Representation filed April 23, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The 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 April 23, 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: Mr. Anthony Murabito, Esq.
WAGNER, MURABITO & HAO, LLP
2 North Market Street, 3rd Floor
San Jose, CA 95113

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MHKKG/Oracle (Sun)
P.O. BOX 398
AUSTIN, TX 78767

Mail Date: 04/20/2010

Applicant	: Peter Yared	: DECISION ON REQUEST FOR
Patent Number	: 7610390	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/309,773	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/03/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1789** 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. 10

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JUL 0 9 2004

OFFICE OF PETITIONS

In re Application of
Markus F. Hirschbold et al
Application No. 10/309,792
Filed: December 4, 2002
Attorney Docket No. 6270/91

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 September 8, 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.

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The instant pending application was filed on December 4, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8859.

This application is being forwarded to Office of Initial Patent Examination Division for further preexamination processing and for the mailing of the Filing Receipt.

Karen Creasy

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

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Paper No. 16

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MAY 0 6 2005

OFFICE OF PETITIONS

In re Application of	:	
MacFarlene et al.	:	DECISION ON APPLICATION
Application No. 10/309,792	:	FOR
Filed: December 4, 2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 6270/91	:	
	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed November 3, 2004. Applicants request that the initial determination of patent term adjustment be corrected from zero (0) to two hundred thirty-two (232) 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 two hundred thirty-two **(232)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 23, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. On November 3, 2004,

applicants timely[1] submitted an application for patent term adjustment (with required fee). Applicants dispute the reduction of 327 days attributed to applicants for failing to respond within three months to the Notice to File Missing Parts of Application mailed July 16, 2000. Applicants state that they timely responded to the Notice on September 8, 2003. In support thereof, applicants submit a copy of their date-stamped and itemized return postcard.

Applicants state that the application is not subject to a terminal disclaimer.

A review of the application file confirms that applicants' response to the Notice to File Missing Parts of Application mailed July 16, 2003, is of record in the application with a date of receipt by the Office of September 8, 2003. Moreover, the response is complete and proper. As this response was filed within the three-month period under 37 C.F.R. § 1.704(b), there was no applicant delay.

Accordingly, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is two hundred thirty-two (232) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. 1.18(e). No additional fees are required.

The application file is being forwarded to the Publishing Division for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Karin Ferriter for

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

---

[1] PALM records show that the Issue Fee payment was received in the Office on December 7, 2004.

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P.O. BOX 10395
CHICAGO IL 60610

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AUG 29 2006
OFFICE OF PETITIONS

In re Patent No. 6,983,211	: DECISION ON REQUEST
Macfarlane et al.	: FOR RECONSIDERATION
Issued: 3 January, 2006	: OF PATENT TERM ADJUSTMENT
Application No. 10/309,792	: and
Filed: 4 December, 2002	: NOTICE OF INTENT TO ISSUE
Atty Docket No. 6270-91	: CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTEMENT INDICATED IN NOTICE OF ALLOWANCE PURSUANT TO 37 CFR § 1.705," which is treated as a request under 37 CFR 1.705(d) filed on 15 February, 2006. Patentees request that the Patent Term Adjustment for the above-identified patent be set at four hundred ninety-seven (497) days.

The request for reconsideration of patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of FOUR HUNDRED NINETY-SEVEN (497) days.

On 3 January, 2006, the above-identified application matured into U.S. Patent No. 6,983,211, with a revised Patent Term Adjustment of 0 days thereon. This determination included 271 days for Office delay in issuing the patent. It has been determined that due to clerical error an incorrect PTA was indicated on the patent. The correct patent term adjustment of 232 days, pursuant to the decision on application for patent term adjustment mailed 6 May, 2005, and the accruing of 271 days of PTA after the mailing of the notice of allowance, was adjusted to 497 days. Due to clerical error, however, the PTA was not properly corrected pursuant to the decision mailed on 6

May, 2005: a reduction of 232 days was entered, rather than the reduction of 327 days being removed. The Office error has been corrected.

In view thereof, the patent term adjustment indicated on the patent should be four hundred ninety seven (497) days.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by FOUR HUNDRED NINETY-SEVEN (497) days.

Telephone inquiries specific to this decision should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,983,211 B2

DATED : January 3, 2006

INVENTOR(S) : I. Ross Macfarlane et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (0) days

Delete the phrase "by 0 days" and insert – by 497 days--

Day : Thursday
Date: 6/15/2006

PALM INTRANET

Time: 19:17:33

PTA Calculations for Application: 10/309792			
Application Filing Date:	12/04/2002	PTO Delay (PTO):	503
Issue Date of Patent:	01/03/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	333
Post-Issue Petitions:	0	Total PTA (days):	497
PTO Delay Adjustment:	327		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
46	06/15/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	327		
45	06/15/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	232		
41.5	12/14/2005	PTA 36 MONTHS			
41	01/03/2006	PATENT ISSUE DATE USED IN PTA CALCULATION	271		39
40	11/26/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
39	12/07/2004	ISSUE FEE PAYMENT VERIFIED			
38	11/25/2005	RECEIPT INTO PUBS			
37	10/27/2005	WORKFLOW - FILE SENT TO CONTRACTOR			
36	07/24/2005	EXPORT TO INITIAL DATA CAPTURE			
35	07/12/2005	RECEIPT INTO PUBS			
34	06/10/2005	FILE MARKED FOUND			
33	05/06/2005	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
33	05/06/2005	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
32	05/05/2005	ADJUSTMENT OF PTA CALCULATION BY PTO		232	
32	05/05/2005	ADJUSTMENT OF PTA CALCULATION BY PTO			
31	03/05/2005	FILE MARKED LOST			
30	11/18/2004	WORKFLOW - CUSTOMER SERVICE REQUEST - FINISH			
29	12/07/2004	ISSUE FEE PAYMENT RECEIVED			
28	11/18/2004	WORKFLOW - CUSTOMER SERVICE REQUEST - BEGIN			
27	11/10/2004	WORKFLOW - FILE SENT TO CONTRACTOR			

26	11/10/2004	RECEIPT INTO PUBS			
25	11/10/2004	RECEIPT INTO PUBS			
24	11/03/2004	PETITION ENTERED			
23	11/05/2004	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
22	11/04/2004	RESPONSE TO AMENDMENT UNDER RULE 312			
21	10/31/2004	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		6	23
20	11/03/2004	WORKFLOW INCOMING PETITION IFW			
19	11/01/2004	CORRESPONDENCE ADDRESS CHANGE			
18	10/24/2004	CORRESPONDENCE ADDRESS CHANGE			
15	09/23/2004	MAIL NOTICE OF ALLOWANCE	232		-1
14	09/20/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
13	09/20/2004	NOTICE OF ALLOWABILITY			
12	09/15/2004	CASE DOCKETED TO EXAMINER IN GAU			
11	09/04/2004	APPLICATION DISPATCHED FROM OIPE			
10	09/07/2004	APPLICATION IS NOW COMPLETE		327	5
9	07/09/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
8	07/09/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	07/09/2004	PETITION DECISION - GRANTED			
6	09/08/2003	PETITION ENTERED			
5	07/16/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	03/13/2003	CLEARED BY L&R (LARS)			
3	01/27/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	12/09/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/04/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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08/693,515

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Patent and Trademark Office
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Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/693,515	08/02/96	ALLEN	

EXAMINER
[illegible]

ART UNIT	PAPER NUMBER
1813	12

18M1/0606

VALETA A GREGG EMERY
BEATON AND SWANSON
4582 S ULSTER ST PKWAY
SUITE 403
DENVER CO 80237

PARKIN, J

DATE MAILED: 06/06/97

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☒ Responsive to communication filed on 08/02/96 ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), _____ days from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. ☒ Notice of References Cited by Examiner, PTO-892.
2. ☒ Notice of Draftsman's Patent Drawing Review, PTO-948.
3. ☐ Notice of Art Cited by Applicant, PTO-1449.
4. ☐ Notice of Informal Patent Application, PTO-152.
5. ☐ Information on How to Effect Drawing Changes, PTO-1474.
6. ☐ _____

Part II SUMMARY OF ACTION

1. ☒ Claims 1-56 are pending in the application.

   Of the above, claims _____ are withdrawn from consideration.

2. ☐ Claims _____ have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☒ Claims 1-56 are rejected.
5. ☐ Claims _____ are objected to.
6. ☐ Claims _____ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____. has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).
12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.
13. ☐ Since this application apppears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

PTOL-326 (Rev. 2/93)

Form PTO 948 (Rev. 10-94) U.S. DEPARTMENT OF COMMERCE - Patent and Trademark Office Application No. 8/693515

NOTICE OF DRAFTSPERSON'S PATENT DRAWING REVIEW

PTO Draftpersons review all originally filed drawings regardless of whether they are designated as formal or informal. Additionally, patent Examiners will review the drawings for compliance with the regulations. Direct telephone inquiries concerning this review to the Drawing Review Branch, 703-305-8404.

The drawings filed (insert date) 8/2/96, are
A. ___ not objected to by the Draftsperson under 37 CFR 1.84 or 1.152.
B. / ___ objected to by the Draftsperson under 37 CFR 1.84 or 1.152 as indicated below. The Examiner will require submission of new, corrected drawings when necessary. Corrected drawings must be submitted according to the instructions on the back of this Notice.

1. DRAWINGS. 37 CFR 1.84(a): Acceptable categories of drawings: Black ink. Color.
   - ___ Not black solid lines. Fig(s)___
   - ___ Color drawings are not acceptable until petition is granted. Fig(s) ___
2. PHOTOGRAPHS. 37 CFR 1.84(b)
   - ___ Photographs are not acceptable until petition is granted. Fig(s) ___
   - ___ Photographs not properly mounted (must use brystol board or photographic double-weight paper). Fig(s)___
   - ___ Poor quality (half-tone). Fig(s)___
3. GRAPHIC FORMS. 37 CFR 1.84 (d)
   - ___ Chemical or mathematical formula not labeled as separate figure. Fig(s)___
   - ___ Group of waveforms not presented as a single figure, using common vertical axis with time extending along horizontal axis. Fig(s)___
   - ___ Individuals waveform not identified with a separate letter designation adjacent to the vertical axis. Fig(s)___
4. TYPE OF PAPER. 37 CFR 1.84(c)
   - ___ Paper not flexible, strong, white, smooth, nonshiny, and durable. Sheet(s)___
   - ___ Erasures, alterations, overwritings, interlineations, cracks, creases, and folds copy machine marks not accepted. Fig(s) ___
   - ___ Mylar, velum paper is not acceptable (too thin). Fig(s) ___
5. SIZE OF PAPER. 37 CFR 1.84(f): Acceptable sizes:
   - 21.6 cm. by 35.6 cm. (8 1/2 by 14 inches)
   - 21.6 cm. by 33.1 cm. (8 1/2 by 13 inches)
   - 21.6 cm. by 27.9 cm. (8 1/2 by 11 inches)
   - 21.0 cm. by 29.7 cm. (DIN size A4)
   - ___ All drawing sheets not the same size. Sheet(s)___
   - ___ Drawing sheet not an acceptable size. Sheet(s) ___
6. MARGINS. 37 CFR 1.84(g): Acceptable margins:

Paper size

	21.6 cm. X 35.6 cm. (8 1/2 X 14 inches)	21.6 cm X 33.1 cm. (8 1/2 X 13 inches)	21.6 cm. X 27.9 cm. (8 1/2 X 11 inches)	21.0 cm. X 29.7 cm. (DIN Size A4)
T	5.1 cm. (2")	2.5 cm. (1")	2.5 cm. (1")	2.5cm.
L	.64 cm. (1/4")	.64 cm. (1/4")	.64 cm. (1/4")	2.5 cm.
R	.64 cm. (1/4")	.64 cm. (1/4")	.64 cm. (1/4")	1.5 cm.
B	.64 cm. (1/4")	.64 cm. (1/4")	.64 cm. (1/4")	1.0 cm.

Margins do not conform to chart above.
Sheet(s)___
___Top (T) ___Left (L) ___Right (R) ___Bottom (B)

7. VIEWS. 37 CFR 1.84(h)
   REMINDER: Specification may require revision to correspond to drawing changes.
   - ___ All views not grouped together. Fig(s)___
   - ___ Views connected by projection lines or lead lines. Fig(s)___
   - Partial views. 37 CFR 1.84(h) 2
   - ___ View and enlarged view not labled separatly or properly. Fig(s)___
   - Sectional views. 37 CFR 1.84 (h) 3
   - ___ Hatching not indicated for sectional portions of an object. Fig(s)___
   - ___ Cross section not drawn same as view with parts in cross section with regularly spaced parallel oblique strokes. Fig(s)___
8. ARRANGEMENT OF VIEWS. 37 CFR 1.84(i)
   - ___ Words do not appear on a horizontal, left-to-right fashion when page is either upright or turned so that the top becomes the right side, except for graphs. Fig(s)___
9. SCALE. 37 CFR 1.84(k)
   - ___ Scale not large enough to show mechanism with crowding when drawing is reduced in size to two-thirds in reproduction. Fig(s)___
   - ___ Indication such as "actual size" or scale 1/2" not permitted. Fig(s)___
10. CHARACTER OF LINES, NUMBERS, & LETTERS. 37 CFR 1.84(l)
    - ___ Lines, numbers & letters not uniformly thick and well defined, clean, durable, and black (except for color drawings). Fig(s)___
11. SHADING. 37 CFR 1.84(m)
    - ___ Solid black shading areas not permitted. Fig(s)___
    - ___ Shade lines, pale, rough and blurred. Fig(s)___
12. NUMBERS, LETTERS, & REFERENCE CHARACTERS. 37 CFR 1.84(p)
    - ___ Numbers and reference characters not plain and legible. 37 CFR 1.84(p)(l) Fig(s) 3, 4, 7, 11
    - ___ Numbers and reference characters not oriented in same direction as the view. 37 CFR 1.84(p)(l) Fig(s)___
    - ___ English alphabet not used. 37 CFR 1.84(p)(2) Fig(s)___
    - ___ Numbers, letters, and reference characters do not measure at least .32 cm. (1/8 inch) in height. 37 CFR(p)(3) Fig(s) 7, 11
13. LEAD LINES. 37 CFR 1.84(q)
    - ___ Lead lines cross each other. Fig(s)___
    - ___ Lead lines missing. Fig(s)___
14. NUMBERING OF SHEETS OF DRAWINGS. 37 CFR 1.84(t)
    - ___ Sheets not numbered consecutively, and in Arabic numerals, beginning with number 1. Sheet(s)___
15. NUMBER OF VIEWS. 37 CFR 1.84(u)
    - ___ Views not numbered consecutively, and in Arabic numerals, beginning with number 1. Fig(s)___
    - ___ View numbers not preceded by the abbreviation Fig. Fig(s)___
16. CORRECTIONS. 37 CFR 1.84(w)
    - ___ Corrections not made from prior PTO-948. Fig(s)___
17. DESIGN DRAWING. 37 CFR 1.152
    - ___ Surface shading shown not appropriate. Fig(s)___
    - ___ Solid black shading not used for color contrast. Fig(s)___

COMMENTS:

Fig legend placed incorrectly (Fig 5)

___ REVIEWER WAS DATE 9/2/96

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Commissioner for Patents
United States Patent and Trademark Office
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Gibson, Dunn & Crutcher LLP
Suite 4100
1801 California Street
Denver CO 80202

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SEP 21 2004

OFFICE OF PETITIONS

In re Application of	:
Allen, et al.	:
Application No. 10/309,802	: DECISION ON PETITION
Filed: December 4, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 63716-00015	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 9, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional application no. 08/693,515, filed August 2, 1996, as set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(I) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on December 4, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney E. Shirene Willis at (703) 308-6712.

This application is being forwarded to Technology Center Art Unit 1648 for appropriate action on the amendment filed January 9, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Brian Dean, for

Charles Pearson
Director, Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

Issue Classification	Application/Control No.	Applicant(s)/Patent under Reexamination	
	10/309,803	FAN, JIAN-BING	
	Examiner	Art Unit	
	FRANK W. LU	1634	

ISSUE CLASSIFICATION

ORIGINAL						CROSS REFERENCE(S)							
CLASS				SUBCLASS	CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)							
435				91.2	435	6	91.1						
INTERNATIONAL CLASSIFICATION					536	23.1	24.3	24.33	25.3				
C	1	2	P	19/34									
C	1	2	Q	1/68									
C	0	7	H	21/02									
C	0	7	H	21/04									
C	0	7	H	21/00									

(Assistant Examiner) (Date)	/Frank W Lu/ 6/12/2009	Total Claims Allowed: 28
(Legal Instruments Examiner) (Date)	(Primary Examiner) (Date)	O.G. Print Claim(s): 1 — O.G. Print Fig.: None

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
	1	18	31		61		91		121		151		181
	2	19	32		62		92		122		152		182
	3	9	33		63		93		123		153		183
	4	13	34		64		94		124		154		184
	5	14	35		65		95		125		155		185
	6	20	36		66		96		126		156		186
1	7	11	37		67		97		127		157		187
2	8	22	38		68		98		128		158		188
	9	25	39		69		99		129		159		189
3	10	26	40		70		100		130		160		190
	11	27	41		71		101		131		161		191
4	12	28	42		72		102		132		162		192
5	13	21	43		73		103		133		163		193
	14	23	44		74		104		134		164		194
	15	24	45		75		105		135		165		195
	16		46		76		106		136		166		196
	17		47		77		107		137		167		197
	18		48		78		108		138		168		198
	19		49		79		109		139		169		199
	20		50		80		110		140		170		200
	21		51		81		111		141		171		201
	22		52		82		112		142		172		202
6	23		53		83		113		143		173		203
7	24		54		84		114		144		174		204
8	25		55		85		115		145		175		205
10	26		56		86		116		146		176		206
15	27		57		87		117		147		177		207
12	28		58		88		118		148		178		208
16	29		59		89		119		149		179		209
17	30		60		90		120		150		180		210

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PALMER & DODGE LLP
111 HUNTINGTON AVENUE
BOSTON, MA 02199-7613

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SEP 29 2005

OFFICE OF PETITIONS

In re Application of :
Danssaert et al. :
Application No. 10/309,814 :
Filed: December 5, 2002 : ON PETITION
For: THERMAL CYCLER INCLUDING :
A TEMPERATURE GRADIENT BLOCK :

This is a notice regarding your Request for Excusing Erroneous Small Entity Payment Under 37 CFR 1.26(c), filed February 18, 2005. The Request is properly treated as a request for acceptance of a fee deficiency submission under 37 CFR 1.28(c). The delay in treating this request is regretted.

37 CFR 1.28(c) states: "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full." Accordingly, the fee deficiency submission under 37 CFR 1.28 is hereby accepted.

The change of status to a large entity has been entered and made of record.

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

Derek L. Woods
Attorney
Office of Petitions

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BERESKIN AND PARR
40 KING STREET WEST
BOX 401
TORONTO ON M5H 3Y2 CA
CANADA

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SEP 28 2007

OFFICE OF PETITIONS

In re Application of

Douglas, et al. :

Application No. 10/309,818

: DECISION ON PETITION

Filed: December 5, 2002

:

Attorney Docket No. **12891-003**

This is a decision on the petition under 37 CFR 1.137(b), filed, November 22, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 9, 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 10, 2006. A Notice of Abandonment was mailed September 25, 2006.

The continuing application 11/518,450 filed September 11, 2006, is noted. The subject application is again abandoned in favor of the continuing application.

The request for an extension of time within the third month is noted, but cannot be granted as the request was made outside the maximum statutory period set for reply to the non-final Office action. The amount of $1020.00 will be refunded in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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GIFFORD, KRASS, SPRINKLE,ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY, MI 48007-7021

Mail Date: 04/21/2010

Applicant	: Bryan Wasylucha	: DECISION ON REQUEST FOR
Patent Number	: 7645137	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/309,831	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/04/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **591** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/309,852	12/04/2002	Joseph P. Fletcher III	Fletcher 1-25-2-7	5272

31282 7590 06/02/2008
LAW OFFICE OF LEO ZUCKER
2591 Duning Drive
PO BOX 1177
Yorktown Heights, NY 10598

EXAMINER
HOFFMANN, JOHN M

ART UNIT	PAPER NUMBER
1791	

MAIL DATE	DELIVERY MODE
06/02/2008	PAPER

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

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

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glm

Mailed : 6-2-08

In re Application of	:	DECISION
J. P. Fletcher III, et al.	:	GRANTING
Serial No. 10/309,852	:	PETITION
Filed: December 4, 2002	:	
For: ROD-IN-TUBE OPTICAL FIBER PREFORM	:	
AND METHOD	:	

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF (37 CFR 41.37) filed April 30, 2008.

Applicant filed an appeal brief on April 11, 2008,, which was held non-compliant under 37 CFR 41.37 by the examiner in a "Notification of Non-Compliant Appeal Brief" mailed April 21, 2008.

The instant petition was then timely filed on April 30, 2008 and is before the Director of Technology Center 1700 for consideration. The petition requests that the Notification of Non-Compliant Appeal Brief of April 21, 2008 be withdrawn.

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

DECISION

As stated in the Notification of April 21, 2008, the examiner held the brief non-compliant because the summary of the claimed subject matter referred to a pin whereas claim 18 recited a fixing member, and because the copy of claim 18 included a superscript '29' which was not in the actual claim.

With respect to the first issue, as stated in MPEP 1207.02 and form paragraph 12.153.02, if the examiner disagrees with applicant's summary of the claimed subject matter (as is the case here), the examiner should simply explain the alleged deficiency in the answer and include a correction, rather than holding the brief non-compliant.

With respect to the second issue, the superscript '29' is clearly simply pointing to a footnote, and there is no prohibition against its inclusion in the claim listing.

As the Notification of Non-Compliant Appeal Brief mailed April 21, 2008 fails to properly identify any actual issues of non-compliance under 37 CFR 41.37, applicant's petition is hereby **GRANTED** and the Notification of April 21, 2008 is withdrawn.

The examiner shall reconsider the appeal brief of April 11, 2008 and take appropriate action in response thereto.

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

LAW OFFICE OF LEO ZUCKER
2591 Duning Drive
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Yorktown Heights NY 10598

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Paper No. 6

WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

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MAY 19 2003

OFFICE OF PETITIONS

In re Application of	:	
Robert Kalany and Keith Jacobs	:	
Application No. 10/309,854	:	DECISION ACCORDING STATUS
Filed: December 4, 2002	:	UNDER 37 CFR § 1.47(a)
Attorney Docket No. J&C- 223A	:	
Title: PACKAGING APPARATUS AND	:	
METHODS	:	

This is a decision on the "Petition under 37 C.F.R. § 1.47(a) to Accept Declaration Unsigned by One of Two Inventors," filed March 26, 2003 (certificate of mailing March 21, 2003).

The petition is **GRANTED**.

The above-identified application was filed on December 4, 2002, without an executed declaration. Robert Kalany and Keith Jacobs were named as joint inventors. Accordingly, on January 22, 2003, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration, and a surcharge for late filing. This Notice set a period for reply of two months from the mailing date of the Notice.

On March 26, 2003, rule 47 applicant responded with a declaration executed by joint inventor Kalany on behalf of himself and on behalf of non-signing inventor Jacobs; the late surcharge under § 1.16(e); and the instant petition (and petition fee). Rule 47 applicant maintains that status under 37 CFR 1.47 is proper because joint inventor Jacobs has refused to join in the application for patent.

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.

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. By declarations of intellectual property manager John Paselsky, petitioner has shown that inventor Jacobs was presented with the application papers, but refused to sign the declaration.

The declaration filed March 26, 2003, and the petition 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 new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 3721 for examination in due course.

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

Nancy Johnson
Petitions Attorney
Office of Petitions

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Keith Jacobs
10163 Meadowknoll Drive
Loveland, OH 45140

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MAY 19 2003

OFFICE OF PETITIONS

In re Application of :
Robert Kalany and Keith Jacobs :
Application No. 10/309,854 : LETTER
Filed: December 4, 2002 :
Attorney Docket No. J&C- 223A :
Title: PACKAGING APPARATUS AND METHODS :
:

Dear Mr. Jacobs:

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. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson

Nancy Johnson
Petitions Attorney
Office of Petitions

WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

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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GENERAL ELECTRIC COMPANY
ANDREW C HESS
GE AIRCRAFT ENGINES
ONE NEUMANN WAY M/D H17
CINCINNATI, OH 45215-6301

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MAR 3 1 2005

OFFICE OF PETITIONS
ON PETITION

In re Application of	:	
Charles William Carrier et al	:	
Application No. 10/309,855	:	
Filed: December 4, 2002	:	
Attorney Docket No. 128488	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 24, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed November 1, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 2, 2005.

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

This file is being forwarded to the Publishing Division.

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

cc:

David E. Crawford, Jr.
P.O. Box 061080
Wacker Drive Station-Sears Tower
Chicago, IL 60606-1080

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Paper No. 6

RAMON L. PIZARRO
Suite 200
3515 SOUTH TAMARAC DRIVE
DENVER, CO 80237

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OCT 0 8 2004

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Gary L. Wolseth :
Application No. 10/309,857 :
Filed: December 4, 2002 :
Attorney Docket No. WOLSETH

This is a decision on the petition under 37 CFR 1.137(a), filed September 13, 2004, to revive the above-identified application.

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

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

The above-identified application became abandoned for failure to reply to the non-final Office action mailed January 2, 2004, which set a period for reply of three (3) months from its mailing date. Extensions of time for reply pursuant to 37 CFR 1.136(a) was available. A proper response was not received within the allowed period, and the application became abandoned on April 3, 2004. A Notice of Abandonment was mailed on July 13, 2004.

A grantable petition under 37 CFR 1.137(a)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(1); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer required by 37 CFR 1.137(c).

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[1]As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

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

The instant petition lacks items (1).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]
"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7] The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

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[3]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

[4]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

[7]Id.

[8]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner that the sole inventor was unable to direct the attorney of record on how to proceed with application because of the inventor's illness.

With regard to item (3) above, the aforementioned argument of petitioner in support of petitioner's belief that the above-cited application was unavoidably abandoned is not persuasive. The reason petitioner's argument must necessarily fail are addressed below.

Petitioner has failed to satisfy the requirements of item (3) above because a successful petition under 37 CFR 1.137(a) requires that petitioner establish 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 1.17(a)--was unavoidable. While the illness of the inventor is indicative of unavoidable delay, petitioner must demonstrate that the illness, and other circumstances, occurred during the relevant period—from April 3, 2004 (the due date for the reply) through the filing of a grantable petition. The evidence provided with the petition only demonstrates that in July 2004, the inventor was prescribed several medications. Petitioner will need to provide a timeline of the inventor's illness that demonstrates that the inventor was ill during the relevant period with the evidence relative to the medications prescribed serving as corroboratively.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b) (enclosed). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,370.00 for a large entity and $685.00 for a verified 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

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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[9]See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

By facsimile: (571) 273-0025
Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64

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RAMON L. PIZARRO
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DENVER, CO 80237

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JAN 25 2005

OFFICE OF PETITIONS

In re Application of :
Gary L. Wolseth :
Application No. 10/309,857 :
Filed: December 4, 2002 :
Attorney Docket No. WOLSETH

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(a), filed December 10, 2004 (certificate of mailing dated December 7, 2004), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned fro failure to reply to the non-final Office action mailed January 2, 2004, which set a period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A proper response was not received within the allowed period, and the application became abandoned on April 3, 2004. A Notice of Abandonment was mailed on July 13, 2004. A petition under 37 CFR 1.137(a) was first filed on September 13, 2004, and dismissed by a decision mailed October 8, 2004.

The amendment filed September 13, 2004, is noted.

The file is now being forwarded to Technology Center 3600 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MARSHALL, GERSTEIN & BORUN LLP (MICROSOFT)
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Todd R. Manion	: DECISION ON REQUEST FOR
Patent Number	: 7613812	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/309,864	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/04/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1111** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,914,641	2005-07-05	10/309,885	2002-12-05	8733.759.00

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	/Eric J. Nuss/	Date (YYYY-MM-DD)	2009-11-11
Name	Eric J. Nuss	Registration Number	40106

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 6914641
Issue Date: July 5,2005
Application No. 10309885
Filed: December 5,2002
Attorney Docket No. 8733.759.00-US

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

This is a decision on the electronic petition, filed November 11,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 11,2009 . 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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APR - 2 2004

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OFFICE OF THE DIRECTOR
TC 3600

Vladimir M. Kabakov
Apt 1201
4600 S. Four Mile Run Drive
Arlington VA 22204

In re application of Vladimir M. Kabakov Application No. 10/309,897 Filed: December 5, 2002 For: TRANSVERSE WATERCRAFT PROPELLER	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on December 5, 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 applicant's U.S. passport which indicates that Mr. Kabakov is at least 65 years of age.

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

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

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

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

SNM/mjz: 3/30/04

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KIRK M. MILES, ESQ.
WEBB ZIESENHEIM LOGSDON ORKIN & HANSON, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH PA 15219-1818

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OCT 13 2006
OFFICE OF PETITIONS

In re Application of	:	
Kirk D. Swenson	:	ON PETITION
Application No. 10/309,904	:	
Filed: December 4, 2002	:	
Attorney Docket No. 3896-021220 (P5691)	:	

This is a decision on the petition filed June 15, 2006, under 37 CFR 1.181, to withdraw the holding of abandonment of the above-identified application.

The petition is DISMISSED.

The above-referenced application was held abandoned on April 11, 2006, for failure to timely reply to the Notice of Non-Compliant Amendment mailed March 8, 2006. Accordingly, a Notice of Abandonment was mailed June 9, 2006.

The Notice of Non-Compliant Amendment set a one month period for reply. Petitioner contends that the status identifiers used in the amendment filed February 23, 2006 were compliant and that therefore, the Notice of Non-Compliant Amendment mailed March 8, 2006 was sent in error. Petitioner further claims that in a conversation with Legal Instruments Examiner Sheila Green, petitioner was told that the Notice of Non-Compliant Amendment mailed March 8, 2006 would be withdrawn. Petitioners claim therefore that the instant application should not be abandoned.

Ms. Green the Legal Instruments Examiner has no record of any communications with petitioner regarding the status identifiers and points out that "Presently Amended" is not a proper status identifier. Ms. Green further advises that the Notice of Non-Compliant Amendment mailed March 8, 2006 indicates that a proper status identifier could include "Previously Amended" but not "Presently Amended".

Unfortunately however, the requirement for responding to communications mailed from the USPTO must be in writing as is required by 37 CFR 1.2. Petitioners are advised that in the absence of the Notice of Non-Compliant Amendment mailed March 8, 2006 not being withdrawn by the USPTO, then by law a response was required. The failure to file a response caused the application to become abandoned.

Applicants are not afforded an opportunity to withhold a written response to an office communication even based on a conversation and reliance upon that conversation with an office employee.

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

Petitioner may wish to file a petition to revive under 37 CFR 1.137(a) or (b). Section 1.137(b) now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
>
> (2) the petition fee as set forth in 37 CFR 1.17(m) ($675.00);
>
> (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and
>
> (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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

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

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

By FAX: (571) 273-8300

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BECTON, DICKINSON AND COMPANY
1 BECTON DRIVE, MC110
FRANKLIN LAKES, NJ 07417-1880

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FEB 2 7 2007

OFFICE OF PETITIONS

In re Application of
Kird D. Swenson
Application No. 10/309,904
Filed: December 4, 2002
Attorney Docket No.: **P-5691**

ON PETITION

This is a decision on the petition filed January 23, 2007 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The above-referenced application was held abandoned on April 11, 2006, for failure to timely reply to the Notice of Non-Compliant Amendment mailed March 8, 2006. The Notice of Non-Compliant Amendment set a one month period for reply. Accordingly, a Notice of Abandonment was mailed June 9, 2006.

This matter is being referred to Technology Center 3767 for appropriate action on the amendment filed January 23, 2007.

Additionally, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEC -7 2004

In re Application of	:	
Kevin E. Myszka	:	
Serial No. 10/309,907	:	DECISION ON PETITION
Filed: December 4, 2002	:	TO WITHDRAW AS ATTORNEY
For: STORAGE CONTAINER FOR	:	
RECORDED MEDIA	:	

By papers filed on July 7, 2004, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

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

Renner, Otto, Boiselle & Sklar, LLP
1621 Euclid Avenue, 19th Floor
Cleveland, OH 44115

E. Rollins-Cross, Director
Technology Center 3700

Fred H. Zollinger, III
Sand & Sebolt
4940 Munson Street, NW, Suite 1100
Canton, OH 44718-3615

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

SUSAN K. DOUGHTY
GREENLEE, WINNER AND SULLIVAN, P.C.
5370 MANHATTAN CIRCLE, SUITE 201
BOULDER CO 80303

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FEB 11 2003

OFFICE OF PETITIONS

In re Application of
Gerhardt, et al.
Application No. 10/309,916
Filed: December 4, 2002
Attorney Docket No. 86-99A
For: PREPARATION OF FUSED POLYCYCLIC ALKALOIDS BY RING CLOSURE OF AZOMETHINE YLIDES, NOVEL COMPOUNDS THEREOF AND THEIR USE AS CHEMOTHERAPEUTIC AGENTS

: DECISION GRANTING PETITION

This is a decision on the petition, filed December 16, 2002, under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of December 4, 2002 rather than the presently accorded filing date of December 5, 2002.

Petitioners request the earlier filing date on the basis that the application was deposited in Express Mail service of the United States Postal Service (USPS) on December 4, 2002, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of Express Mail label no. EV182440463US showing an illegible "date-in" **and** a USPS date stamp of December 4, 2002. The same Express Mail label number is found on the original application papers.

The evidence presented establishes that the Express Mail package associated with Express Mail label no. EV182440463US was deposited with the USPS on December 4, 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 **December 4, 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
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

DAVID ALAN SILVA
2314 LAFAYETTE ST
SANTA CLARA, CA 95050

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DEC 22 2004

OFFICE OF PETITIONS

In re Application of :
David Silva :
Application No. 10/309,926 :
Filed: December 3, 2002 :
Attorney Docket No. None :

ON PETITION

This is a decision on the petition, filed October 25, 2004, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed March 24, 2004. A Notice of Abandonment was mailed on October 15, 2004.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 3732 for consideration of the amendment filed October 25, 2004.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

In re Application of
Bart ter Braak
Application No. 10/309,945
Filed: December 3, 2002
Attorney Docket No. 12378.0004US01

ON PETITION

This is a decision in response to the petition, filed September 11, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed February 24, 2009, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on May 25, 2009. On September 11, 2009, the present petition was filed. A Notice of Abandonment was subsequently mailed on September 14, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 3634 for appropriate action by the Examiner in the normal course of business on the amendment received September 11, 2009.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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John P. O'Banion
O'BANION & RITCHEY LLP
Suite 1550
400 Capitol Mall
Sacramento, CA 95814

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SEP 16 2005

OFFICE OF PETITIONS

In re Application of	:	
Pinter et al.	:	
Application No. 10/309,986	:	ON PETITION
Filed: December 3, 2003	:	
Attorney Docket Number:	:	
MAG5363.01A	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed July 18, 2005.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed February 1, 2005. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on May 3, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition, Applicant has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). The issue fee was filed on May 3, 2005. Accordingly, the petition is granted.

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

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

Derek L. Woods
Attorney
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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AUG 14 2006
OFFICE OF PETITIONS

V Gerald Grafe, General Counsel
Inlight Solutions, Inc.
800 Bradbury SE
Albuquerque NM 87106

In re Application of :
Messerschmidt, et al. : DECISION ON PETITION
Application No. 10/309,994 :
Filed: December 4, 2002 :
Atty. Docket No.: 1023.1107102 :

This decision is in response to the petition filed April 7, 2006 under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **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 1.181." This is not a final agency decision.

This application became abandoned July 10, 2004 for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed April 9, 2004. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed March 7, 2006.

Petitioners argue a response to the Notice was timely submitted June 30, 2004.

It is acknowledged that on July 7, 2004, an issue fee transmittal was received authorizing the Office to charge the issue fee and publication fee to Deposit Account No. 50-2443. However, at the time of receipt of the reply, Office records reveal that the noted deposit account lacked funds sufficient to cover the required fee. Accordingly, the application was deemed abandoned.

Any renewed petition must be accompanied by evidence to sufficiently establish timely receipt of the required reply to the Notice.

ALTERNATE VENUE

Petitioners are strongly urged 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) 273-8300
By hand delivery:	U.S. Patent and Trademark Office Customer Window, **Mail Stop Petition** Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

V. Gerald Grafe, General Counsel
Inlight Solutions, Inc.
800 Bradbury SE
Albuquerque, NM 87106

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NOV 13 2006

OFFICE OF PETITIONS

In re Application of :
Messerschmidt, et al. : DECISION ON PETITION
Application No. 10/309,994 :
Filed: December 4, 2002 :
Docket No.: 1023.1107102 :

This is a decision on the petition renewed under 37 C.F.R. § 1.137(b), filed September 5, 2006.

The petition is hereby GRANTED.

This application became abandoned for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed April 9, 2004. Notice of Abandonment was mailed March 7, 2006. A petition, under 37 CFR 1.181 was filed April 7, 2006 and dismissed August 14, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4)any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application will be forwarded to the Office of Patent Publication for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

AMBrown

Alesia M. Brown
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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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/310,000	12/04/2002	Frank Londry	32105/93984

CONFIRMATION NO.
5639

BARNES & THORNBURG
P.O. BOX 2786
CHICAGO IL 60690-2786

Date Mailed: October 28, 2004

Decision Dismissing Petition under 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c) filed on October 27, 2004, for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

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

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

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

3. ■ The Application was published on October 9, 2003, in compliance with 35 U.S.C. 122(b), the publication number is US20030189168A1, and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.

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

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

Barbara J. Debnam
Office of Patent Publication
Pre-Grant Publication Division

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.
10/310,015	12/04/2002	Stuart E. Lind	28493/34759A	6385

4743 7590 05/15/2008
MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

EXAMINER
GEMBEH, SHIRLEY V

ART UNIT	PAPER NUMBER
1614	

MAIL DATE	DELIVERY MODE
05/15/2008	PAPER

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

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

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MAY 1 5 2008

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

: PETITION DECISION

In re Application of:
Lind et al.
Serial No.: 10/310,015
Filed: December 4, 2002
Attorney Docket No.: 28493/34759A

This is in response to the petition filed under 37 CFR § 1.181 on October 31, 2007 requesting that the finality of the Office action mailed on October 2, 2007 be withdrawn.

BACKGROUND/DISCUSSION

Briefly, in the petition filed under 37 CFR § 1.181 on October 31, 2007, Applicants argue that the finality of the Office action mailed October 2, 2007 was premature and that the finality of said Office action should be withdrawn.

However, on October 31, 2007, along with the filing of the petition under 37 CFR § 1.181, applicants concurrently filed a proper Request for Continued Examination (RCE). Subsequently, the examiner mailed a non-final Office action on the merits on January 30, 2008 setting a three month statutory limit for reply. Applicants argue in the petition: "The implementation of the *PTO's new rules forced Applicants to file a conditional RCE* before consideration of this petition on the merits. Thus, if the petition is granted, Applicants request that the RCE fee be refunded" (page 4, Petition, emphasis added). However, it is first noted that the 'PTO's new rules' were never implemented nor enforced. Secondly, even if the 'PTO's new rules' had been enforced, applicants were not 'forced' to file an RCE as the proposed new rules comprised means for filing RCEs. Lastly, there is no such RCE as a 'conditional RCE', as applicants contend; on the contrary, 'conditional RCE' is not found in the MPEP. It is therefore decided that applicants were not forced to file an RCE, however, did so on their own accord.

Thus, applicants' request for the RCE fee to be refunded is denied.

The filing of an RCE concurrently with a petition to withdraw finality of the final Office action mailed by the examiner on October 2, 2007 renders this petition moot since the RCE negated the need for a petition as the application is no longer under final rejection.

DECISION

The petition is moot and is **DISMISSED.**

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.

Marianne C. Seidel
Quality Assurance Specialist/Program Manager
Technology Center 1600

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Alexandria, VA 22313-1450
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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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MAY 1 9 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Yoshiaki Fukuzumi :
Application No. 10/310,022 :
Filed: December 5, 2002 :
Attorney Docket No. 231116US2S :

This is a decision on the petition, filed May 18, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on April 28, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2818 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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JC25

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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RECEIVED: 5-2004
OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: 05-2004
Type of Resp(s):
Due Date(s):

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

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MAY 1 9 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Yoshiaki Fukuzumi :
Application No. 10/310,022 :
Filed: December 5, 2002 :
Attorney Docket No. 231116US2S :

This is a decision on the petition, filed May 18, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 28, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2818 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

COPY

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

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OFFICE OF PETITIONS

In re Application of :
Yoshiaki Fukuzumi :
Application No. 10/310,022 : ON PETITION
Filed: December 5, 2002 :
Attorney Docket No. 231116US2S :

This is a decision on the petition, filed September 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 September 9, 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 2818 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).

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Patent Capital Group - Cisco
6119 McCommas
Dallas, TX 75214

Mail Date: 04/20/2010

Applicant	: Sudhakar Shenoy	: DECISION ON REQUEST FOR
Patent Number	: 7602717	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/310,029	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/05/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2017** 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 18 2004

In re Application of	:	
Keizo Kobayashi, et al.	:	
Serial Number : 10/310,052	:	WITHDRAWAL
Filed : December 05, 2002	:	FROM
For : PASTE TYPE DENTAL GLASS	:	ISSUE
IONOMER CEMENT COMPOSITION	:	

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

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

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee to applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for action.

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

Oblon, Spivak, McClelland, Maier &
Neustadt, PC
1940 Duke Street
Alexandria, VA 22314

cc:Allowed Files, Pk3-915

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

FITZPTRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3800

In re Application of	:	
YUJI YAMANAKA	:	DECISION ON REQUEST TO
Application No. 10/310054	:	PARTICIPATE IN PATENT
Filed: December 5, 2002	:	PROSECUTION HIGHWAY
Attorney Docket No. 03500.016881	:	PILOT PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed December 1, 2006, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to John Peng at 571-272-7272.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

John Peng
TC 2600
Quality Assurance Specialist

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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JUN 22 2007

OFFICE OF PETITIONS

In re Patent No. 7,196,827	:	
Issued: March 27, 2007	:	
Application No. 10/310,054	:	PATENT TERM ADJUSTMENT
Filed: December 5, 2002	:	
Dkt. No.: 03500.016881	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT (PTA) UNDER 37 C.F.R. § 1.705(d)," filed May 21, 2007.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is **GRANTED TO THE EXTENT INDICATED HEREIN**.

The above-identified application matured into U.S. Patent No. 7,196,827 on March 27, 2007. The instant request for reconsideration was timely filed in accordance with 37 C.F.R. § 1.705(d). The patent issued with a PTA of 1006 days. Patentee argues that the application is entitled to an adjustment of 1069 days.

A review of the application history reveals that an adjustment of 1069 days under 37 CFR 1.702(a)(1) and 1.703(a)(2) can be attributed to the Office for failure to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed.

The Office errantly reduced the adjustment 63 days in connection with the drawings and Rule 312 amendment submitted January 24, 2007. Indeed, the correct reduction in connection with said submission is six days. The reduction began January 24, 2007, the date that the amendment and drawings were submitted, and ended January 29, 2007, the date that the Office mailed a response thereto.

While patentee argues that the submission of the drawings and amendment is not a failure to engage in reasonable efforts to conclude prosecution of the application, patentee is reminded that in accordance with 37 CFR 1.704(c)(10), submission of an

amendment under § 1.312 or other paper, including drawings, after a Notice of Allowance has been given or mailed is deemed a failure to engage in reasonable efforts to conclude prosecution and thus constitute a reduction of any patent term adjustment. *See*, MPEP 2732. *See, also, Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001).

In view thereof, at the time of issuance, the application was entitled to a patent term adjustment of 1063 days.

Receipt is acknowledged of the required PTA application fee of $200.00.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 1063 days.

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

Nancy Johnson for

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

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,196,827 B2

DATED : March 27, 2007

INVENTOR(S) : Yamanaka

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 1006 days

Delete the phrase "by 1006 days" and insert – by 1063 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 14, 2006

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/310055 Patent No.: 6,984,660

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE

1626
Art Unit

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OCT 20 2003

OFFICE OF DIRECTOR
GROUP

Brandon N. Sklar
KAYE SCHOLER LLP
425 Park Avenue
New York, NY 10022

In re Application of	)	DECISION ON PETITION
Ford et al.	)	TO MAKE SPECIAL
Application No.10/310,060	)	
Filed: December 4, 2002	)	
Attorney Docket No. 63314-1005	)	

This is a decision on the petition under 37 C.F.R. § 1.102, filed August 20, 2003, to make the above-identified application special.

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

A grantable petition to make an application special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Section XI, for an invention for countering terrorism must be accompanied by a statement explaining how the invention contributes to countering terrorism and a petition fee under 37 C.F.R. § 1.17(h).

The petition was accompanied by a statement by the attorney of record and met the requirements of M.P.E.P. § 708.02, Item XI.

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

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

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, 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
(703) 308-7502

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SEP 12 2005

In re Application of		:	
Barry Gregerson et al.		:	
Serial No.	10/310,069	:	DECISION ON PETITION
Filed:	December 4, 2002	:	
For:	300 MM MICROENVIRONMENT POD	:	
	WITH DOOR ON SIDE	:	

This is a decision on the petition to make special filed on August 29, 2005. The petition is submitted pursuant to the practice established in MPEP § 708.02(II) "Infringement." The $130.00 petition fee has been received.

The petition is granted.

A review of the petition shows that petitioners have satisfied all of the requirements of the above-cited MPEP section. 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 Supervisory Patent Examiner of Patent Examining Art Unit 3728 will be notified of this decision, and will inform the assigned examiner to take action not inconsistent with this decision.

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

Bradley J. Thorson
Patterson, Thuente, Skaar & Christensen, PA
4800 IDS Center, 80 South 8th Street
Minneapolis, MN 55402-2100

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OFFICE OF PETITIONS

Pfizer Inc.
Patent Department, Ms8260-1611
Eastern Point Toad
Groton, CT 06340

In re Application of
Flanagan et al.
Application No. 10/310,078
Patent No. 6,965,027
Filed: December 4, 2002
Attorney Docket No. PC23261A US

: DECISION GRANTING PETITION

This decision is in response to Applicants' "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR1.705(d)" timely filed on January 13, 2005 requesting that the Office adjust the PTA determination at the time of the mailing of the notice of issuance from a determination of seven (7) days to a determination of one hundred and eleven (111) days.

Applicants application for PTA is **GRANTED.** The Office will adjust the PTA calculation at the time of the mailing of the issue notification letter to reflect this decision. The proper amount of PTA at the time of the issuance of the patent is **111** days. The Office will *sua sponte* issue a certificate of correction reflecting this decision..

Applicants assert that the Office erred in the PTA calculation. The applicants assert that the Office erred in not assessing a reduction under 37 CFR 1.702(a)(2) for the period of 17 days beginning on March 22, 2004 and ending on April 7, 2004. Applicants assert that the Office entered the date of the re-submission on February 17, 2004 rather than the date of November 21, 2003. Applicants provide post-card receipt as proof of date of submission. In addition, applicants assert that the Office erred is assessing a reduction under1.704(b) of one hundred and eighty-one (181) days rather than the proper amount of 93 days. Applicants also assert a one day delay for the reply filed on July 8, 2004 under 37 CFR 1.704(b).

Applicants arguments are persuasive for the reasons cited by applicant. Accordingly, the correct amount of pTA at the time of the mailing of the issue notification letter is 111 (188 +17 - 1 -93= 111).

After the mailing of this decision, the Office will forward this patented file to the certificate of correction branch for a prompt issuance of a certificate of correction.

The Office has assessed the $200.00 fee. No additional fees are required in this deciding this application.

Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination

Policy, at 571-272-7757.

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

cc: adjusted Pair calculation
DRAFT Cert. Of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,965,027 B2

DATED : Nov. 15, 2005

INVENTOR(S) : Vandenberg 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 (7) days

Delete the phrase "by 7 days" and insert – by 111 days--

PALM INTRANET

Day : Friday
Date: 6/9/2006
Time: 11:34:25

PTA Calculations for Application: 10/310078			
Application Filing Date:	12/04/2002	PTO Delay (PTO):	188
Issue Date of Patent:	11/15/2005	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	181
Post-Issue Petitions:	0	Total PTA (days):	111
PTO Delay Adjustment:	104		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
65	06/09/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	104		
61	11/15/2005	PATENT ISSUE DATE USED IN PTA CALCULATION	188		56
60	10/17/2005	RECEIPT INTO PUBS			
59	10/17/2005	DISPATCH TO FDC			
58	10/17/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
56	01/11/2005	ISSUE FEE PAYMENT VERIFIED			
55	09/28/2005	RECEIPT INTO PUBS			
54	09/27/2005	RECEIPT INTO PUBS			
53	01/11/2005	ISSUE FEE PAYMENT RECEIVED			
52	10/22/2004	EXPORT TO INITIAL DATA CAPTURE			
46	10/14/2004	MAIL NOTICE OF ALLOWANCE			
45	10/14/2004	MAIL FORMAL DRAWINGS REQUIRED			
44	10/13/2004	ISSUE REVISION COMPLETED			
43	10/13/2004	FORMAL DRAWINGS REQUIRED			
42	10/13/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
41	10/13/2004	NOTICE OF ALLOWABILITY			
40	07/08/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	08/06/2004	DATE FORWARDED TO EXAMINER			
38	07/07/2004	REQUEST FOR CONTINUED EXAMINATION (RCE)			
37	08/06/2004	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
36	07/23/2004	WORKFLOW - REQUEST FOR RCE - FINISH			
35	07/08/2004	WORKFLOW INCOMING AMENDMENT IFW			

34	07/08/2004	WORKFLOW - REQUEST FOR RCE - BEGIN			
33	06/30/2004	RECEIPT INTO PUBS			
32	06/30/2004	RECEIPT INTO PUBS			
31	06/01/2004	WORKFLOW INCOMING AMENDMENT IFW			
30	04/29/2004	RECEIPT INTO PUBS			
29	04/28/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
28	04/26/2004	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
27	04/23/2004	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
25	04/15/2004	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
24	04/07/2004	MAIL NOTICE OF ALLOWANCE			
23	04/07/2004	MAIL FORMAL DRAWINGS REQUIRED			
22	04/06/2004	ISSUE REVISION COMPLETED			
21	04/06/2004	FORMAL DRAWINGS REQUIRED			
20	04/06/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
19	04/06/2004	CASE DOCKETED TO EXAMINER IN GAU			
18	04/06/2004	NOTICE OF ALLOWABILITY			
17	02/26/2004	DATE FORWARDED TO EXAMINER			
16	02/17/2004	RESPONSE AFTER NON-FINAL ACTION		181	11
15	02/17/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
14	12/18/2003	CASE DOCKETED TO EXAMINER IN GAU			
13	12/18/2003	CASE DOCKETED TO EXAMINER IN GAU			
12	06/03/2003	WORKFLOW - SIGNATORY REVIEW - BEGIN			
11	05/20/2003	MAIL NON-FINAL REJECTION			
10	05/19/2003	NON-FINAL REJECTION			
9	03/25/2003	CASE DOCKETED TO EXAMINER IN GAU			
8	03/12/2003	APPLICATION DISPATCHED FROM OIPE			
7	03/12/2003	APPLICATION IS NOW COMPLETE			
6	02/07/2003	ADDITIONAL APPLICATION FILING FEES			
5	02/07/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	01/14/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	12/31/2002	CLEARED BY L&R (LARS)			

2	12/09/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/04/2002	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No. 7

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

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OCT 14 2004

OFFICE OF PETITIONS

In re Application of	:	
Joseph Keith Charles Moloney	:	
Application No. 10/310,082	:	ON PETITION
Filed: December 4, 2002	:	
Attorney Docket No. 78263	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 30, 2004, to revive the above-identified application.

The petition is **GRANTED**.

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

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

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

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HARNESS DICKEY & PIERCE PLC
P O BOX 828
BLOOMFIELD HILLS, MI 48303

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OFFICE OF PETITIONS

In re Application of	:	
Takuya Ohara et al	:	
Application No. 10/310,086	:	DECISION GRANTING PETITION
Filed: December 4, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 5259-000011	:	

This is a decision on the petition, filed April 5, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 17, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2613 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\Apr9\310086.wpd

---

[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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FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON MA 02110

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OFFICE OF PETITIONS

In re Application of	:
Jiao et al.	:
Application No. 10/310,113	: DECISION ON PETITION
Filed: 4 December, 2002	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. TNA-006.02	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed 27 April, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application(s) 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 application(s) under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application(s). In order for this application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. § 120 and 37

CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application(s) should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application(s) noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the 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(s), 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 1644 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application(s)

Charles A. Pearson
Director, Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/310,113	12/04/2002	1644	790	TNA-006.02	12	32	2

CONFIRMATION NO. 4331

CORRECTED FILING RECEIPT

OC000000019330460

25181
FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

Date Mailed: 06/19/2006

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)

Jin-An Jiao, Fort Lauderdale, FL;
Hing C. Wong, Fort Lauderdale, FL;
Esperanza Liliana Nieves, Newark, DE;
Luis A. Mosquera, Miami, FL;

Power of Attorney: The patent practitioners associated with Customer Number **25181**.

Domestic Priority data as claimed by applicant

This application is a CIP of 09/990,586 11/21/2001 ABN
which claims benefit of 60/343,306 10/29/2001
This application 10/310,113
is a CIP of 09/293,854 04/16/1999 PAT 6,555,319
which is a CON of 08/814,806 03/10/1997 PAT 5,986,065

Foreign Applications

If Required, Foreign Filing License Granted: 02/11/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/310,113

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Use of anti-tissue factor antibodies for treating thromboses

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

Foreign 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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Jacobson Holman
400 Seventh Street, N.W.
Washington DC 20004-2218

NOV 21 2005

In re Application of:
RYU et al.
Serial No.: 10/310,143
Filed: December 05, 2002
Attorney Docket No.: **P68390US0**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition under 37 CFR § 1.181, filed July 30, 2004, to withdraw the holding of abandonment in the above identified application.

The petition is **DENIED**.

A Final Office action was mailed on December 15, 2003, setting a three-month shortened statutory period for response thereto. A proposed After Final amendment was filed on March 12, 2004. The proposed After Final amendment was resubmitted on June 24, 2004. An advisory action was mailed on July 13, 2004 denying entry of the After Final amendment because it raised new issues requiring further consideration and/or search. A Notice of Abandonment was subsequently mailed on July 22, 2004.

Petitioner requests withdrawal of the holding of abandonment since the After Final amendment was received by the Office on March 12, 2004, prior to the expiration of the three-month shortened statutory period for response.

A proper reply under 37 C.F.R. § 1.113 to a final rejection consists of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 C.F.R. § 1.114. Pursuant to 37 C.F.R. § 1.113, the time for reply to a Final Office action does not stop unless a timely filed proposed After Final amendment places the application in condition for allowance.

Since the period for filing a response to a Final Office action does not stop until one of the above conditions is satisfied, it is incumbent upon an applicant to take steps to ensure against abandoning of his/her application. Because the proposed After Final amendment filed March 12, 2004, did not place the application in condition for allowance, the application became abandoned

as a matter of law on March 15, 2004. While it is regrettable that the Advisory Action was not promptly mailed after submission of the After Final amendment, failure to timely receive an Advisory Action does not save the application from becoming abandoned if a proper response was not submitted within the maximum statutory period.

Petitioner may wish to consider filing a petition under 37 C.F.R. 1.137 (a) or (b) to revive the application.

Any inquiry regarding this decision should be directed to Clayton E. LaBalle, Special Program Examiner, at (571) 272-1594.

Sharon A. Gibson, Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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400 SEVENTH STREET NW
WASHINGTON DC 20004-2218

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OFFICE OF PETITIONS

In re Application of	:	
Ryu, et al.	:	
Application No. 10/310,143	:	ON PETITION
Filed: December 5, 2002	:	
Attorney Docket No. P68390US0	:	

This is a decision on the petition filed on February 8, 2006, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed on December 15, 2003. Applicants filed an Amendment on March 12, 2004. However, on July 13, 2004, the Office mailed an Advisory Action, informing Applicants that the Amendment would not be entered because it failed to place the application in condition for allowance. Accordingly, the application became abandoned on March 16, 2004. A Notice of Abandonment was mailed on July 22, 2004. Applicants filed a petition to withdraw the holding of abandonment on July 30, 2004. The petition was dismissed in a decision mailed on November 21, 2005.

With the instant petition, applicant paid the petition fee, submitted the required reply in the form of an RCE, and made the proper statement of unintentional delay.

The matter is being forwarded to Group Art Unit 2823 for consideration of the RCE, filed February 8, 2006.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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DARBY & DARBY P.C.
805 THIRD AVENUE
NEW YORK NY 10022-7513

In re Application of
Michael Seul
Serial No.: 10/310,173
Filed: December 4, 2002
Attorney Docket No.: LEAPS-C9

: PETITION TO MAKE SPECIAL

This is a decision on the petition filed on September 18, 2006 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a **newly** filed non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because it was not a new application at the time the petition was filed and was not filed electronically.

For the above-stated reasons, the petition is denied. The application has been forwarded to the Board of Patent Appeals and Interferences or consideration of the Appeal.

Any inquiry regarding this decision should be directed to William R. Dixon, Jr., Special Program Examiner, at (571) 272-0519.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 5000

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3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

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OFFICE OF PETITIONS

In re Application of	:
Michael Suel	:
Application No. 10/310173	: DECISION ON PETITIONS
Filing or 371(c) Date: 12/04/2002	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 4363-4012US9	:

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed January 9, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of priority to the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed applications under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this

application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

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.

Any questions concerning this matter may be directed to Derek Woods at (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 1641 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. § §120 and 119(e) to the prior-filed applications.

Christina L Donnell

Christina Donnell
Senior Attorney
Office of Petitions

CC: ERIC P. MIRABEL
BIOARRAY SOLUTIONS, LTD.
35 TECHNICNOLOGY DRIVE
WARREN, NJ 07059

ATTACHMENT : Corrected Filing Receipt

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
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MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Application of
Shiga et al.
Application No. 10/310,176
Filed: December 5, 2002
Attorney Docket No. 245402002010

DECISION ON PETITION

This is a decision on the "petition" under 37 CFR 1.182, filed, January 29, 2008, to change the name of inventor "Hiromi Kinoshita" to – Hiromi Matsumoto --.

The petition is **DISMISSED**.

A review of the documents submitted shows that a petition has not been submitted. The Office is in receipt of a Statement by Inventor In Support of Petition For Inventor Name Change Under 37 CFR §1.182 which is executed solely by inventor Kinoshita/Matsumoto.

Pursuant to 37 CFR 1.33, amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered attorney or agent of record appointed in compliance with § 1.34(b);
(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
(3) An assignee as provided for under § 3.71(b) of this chapter; or
(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

The issue fee in this application was paid on January 29, 2008. Effective May 29, 2000, the Office changed the practice by clarifying that an amendment under 37 CFR 1.312 (after allowance) must be filed prior to or with payment of the issue fee, and eliminated 37 CFR 1.312(b). Since a change to the inventor's name is an amendment to the application, and amendments are not permitted after payment of the issue fee, a petition under 37 CFR 1.182 to change the inventor's name cannot be granted.

Nevertheless, the petition may still be granted if a renewed petition under 37 CFR 1.182, along with a request for a certificate of correction and fee of $100, are submitted.

In view of the above, the petition under § 1.182 cannot be granted at this time to change the inventor's name.

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

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

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

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

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

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

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ONE METROPOLITAN SQUARE
16TH FLOOR
ST. LOUIS, MO 63102

In re Application of	:
Honer, et al.	: DECISION ON APPLICATION
Application No. 10/310,184	: FOR PATENT TERM ADJUSTMENT
Filed: December 4, 2002	:
Atty. Dkt. No.: KCC 4941 (K-C	:
17, 416B)	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed April 5, 2006. This matter is being properly treated under 37 CFR 1.705(b) as a timely filed application for patent term adjustment.

The application for patent term adjustment under 37 CFR 1.705(b) is hereby **GRANTED**.

The correct patent term adjustment ("PTA") at the time of the allowance is 523 days. The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the instant letter reflects an adjustment of 523 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application, mailed February 6, 2006, indicated that the PTA to date is zero days. The instant application for patent term adjustment was timely filed April 5, 2006.

An adjustment of 188 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1).

At the time of allowance, there was no failure by applicants to engage in reasonable efforts to conclude prosecution. The Office errantly entered November 8, 2005 as the date that applicants' submitted a Request for Continued Examination (RCE) when in fact the RCE was submitted November 8, 2004, as indicated by applicants. Accordingly, the reduction of 363 days attributed to the submission of the RCE is an error that has in fact been corrected.

Moreover, in view of the errant entry regarding the RCE, it has been determined that an adjustment of 335 days under 37 CFR 1.702(a)(2) can be attributed to the Office. The reduction began March 9, 2005, the day after the date that is four months after the date that the RCE was submitted, and ended February 6, 2006, the date the Notice of Allowance was mailed.

Thus, at the time of allowance, the application is entitled to an adjustment of 335 days, as argued by applicants, for the ~~[illegible]~~ overlap response to the RCE.

In view thereof, at the time of allowance, the application was entitled to an adjustment of 523 days, as argued by applicants.
overall

Applicants are further advised that should a patent issue, the patent term adjustment indicated therein will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The required Patent Term Adjustment application fee of $200.00 has been charged to applicants' deposit account as authorized.

This application is being forwarded to Technology Center 2800 for consideration of the Request for Continued Examination submitted April 5, 2006.

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

Kery Fries

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

Enclosure: Copy of Adjustment PAIR Calculation

Day : Wednesday

PALM INTRANET

Date: 5/3/2006
Time: 14:29:43

PTA Calculations for Application: 10/310184			
Application Filing Date:	12/04/2002	PTO Delay (PTO):	188
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	363
Post-Issue Petitions:	0	Total PTA (days):	523
PTO Delay Adjustment:	698		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
39	05/03/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	335		
38	05/03/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	363		
35	02/06/2006	MAIL NOTICE OF ALLOWANCE			
34	02/03/2006	ISSUE REVISION COMPLETED			
33	02/03/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
32	02/01/2006	NOTICE OF ALLOWABILITY			
31	11/08/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	11/08/2004	REFERENCE CAPTURE ON IDS			
29	01/30/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
28	11/08/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	01/30/2006	DATE FORWARDED TO EXAMINER			
26	11/08/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)		363	13
25	01/30/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
24	11/08/2004	WORKFLOW - REQUEST FOR RCE - BEGIN			
23	01/11/2005	EXPORT TO INITIAL DATA CAPTURE			
22	11/08/2004	WORKFLOW - REQUEST FOR RCE - FINISH			
21	11/08/2004	WORKFLOW INCOMING AMENDMENT IFW			
20	11/08/2004	WORKFLOW - REQUEST FOR RCE - BEGIN			
19	09/24/2004	RECEIPT INTO PUBS			
18	08/16/2004	RECEIPT INTO PUBS			
17	08/13/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
16	08/13/2004	RECEIPT INTO PUBS			

15	08/11/2004	DISPATCH TO PUBLICATIONS			
14	08/11/2004	ISSUE REVISION COMPLETED			
13	08/10/2004	MAIL NOTICE OF ALLOWANCE	188		-1
12	08/09/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
11	08/09/2004	NOTICE OF ALLOWABILITY			
10	08/04/2004	CASE DOCKETED TO EXAMINER IN GAU			
9	03/26/2003	APPLICATION DISPATCHED FROM OIPE			
8	03/25/2003	APPLICATION IS NOW COMPLETE			
7	03/06/2003	ADDITIONAL APPLICATION FILING FEES			
6	03/06/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	12/04/2002	INITIAL EXAM TEAM NN			
4	01/10/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
2	12/09/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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3605 HIGHWAY 52 NORTH
ROCHESTER MN 55901-7829

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OFFICE OF PETITIONS

In re Application of	:	
Cragun et al.	:	
Application No. 10/310,192	:	ON APPLICATION
Filed: December 4, 2002	:	FOR
Atty Docket No.ROC920020165US1	:	PATENT TERM ADJUSTMENT

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. § 1.705) filed November 19, 2007.

This application for patent term adjustment was timely filed with payment of the Issue Fee on November 19, 2007. The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date. A decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is ordinarily required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). It is noted that at the time of this decision, the patent has not issued.

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicants may seek such consideration without payment of an additional fee. However, as to all other bases for

seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment 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 pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, 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.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW May-05

THOMAS N. YOUNG
YOUNG & BASILE P.C.
SUITE 624
3001 W. BIG BEAVER ROAD
TROY MI 48084

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OFFICE OF PETITIONS

In re Application of	:	
John J. Borzym	:	
Application No. 10/310,194	:	DECISION ON PETITION
Filed: 4 December, 2002	:	
Atty Docket No. TMA-104-A	:	

This is a decision on the petition filed on 22 February, 2002, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 12 October, 2004, for failure to timely an Appeal Brief in response to the Notice of Appeal filed on 11 August, 2004, 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. The present petition was filed prior to the mailing of Notice of Abandonment.

---

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

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

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

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

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

The application is being referred to Technology Center Art Unit 3724 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

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DONNA J. THIES, ESQ.
790 IDYLWOOD DRIVE S.W.
ISSAQUAH WA 98027

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OFFICE OF PETITIONS

In re Application of	:	
Michael J. MITROVICH, *et al.*	:	
Application No. 10/310,211	:	ON PETITION
Filed: December 5, 2002	:	
Attorney Docket No. MITM106	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on December 27, 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 on April 19, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned, by operation of law, on July 20, 2005. A Notice of Abandonment was mailed on November 23, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment that *prima facie* places the application in condition for allowance; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Accordingly, the reply to the final Office action of April 19, 2005 is accepted as having been unintentionally delayed.

A Revocation of Power of Attorney With New Power of Attorney and Change of Correspondence Address filed on December 27, 2005 had not been accepted, because it is not signed by all applicants. See 37 CFR 1.33(b)(4), 37 CFR 1.36(a), MPEP 402.05 and 402.10.

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 or authorization of agent to prosecute the application. If the person signing the 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 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 Anatoly Vortman at (571) 272-6051, or in his absence to the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3682 for appropriate action on the concurrently filed amendment.

David Buoci
Petitions Examiner
Office of Petitions

Cc: DYKAS, SHAVER & NIPPER, LLP
P.O. BOX 877
BOISE, ID 83701-0877

UNITED STATES PATENT AND TRADEMARK OFFICE

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HARNESS DICKEY & PIERCE PLC
P O BOX 828
BLOOMFIELD HILLS, MI 48303

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AUG 1 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Heizaburo Kato	:	
Application No. 10/310,213	:	DECISION ON PETITION
Filed: December 5, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 3557-000031	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 10, 2004, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED as moot**.

Unfortunately, the instant petition was not received prior to issuance of the instant application into a patent; i.e., the petition was filed on the same day the patent issued on this application.

Since this application has issued, the concurrently filed request for continued examination (RCE) is improper and will not be processed. In view thereof, the $770 filing fee submitted therefor, as well as the petition fee of $130, will be refunded in due course.

The Information Disclosure Statement has been placed in the file of the above-identified matter without further consideration. See 37 CFR 1.97(i).

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

Frances Hicks

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

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OFFICE OF PETITIONS

GAZDZINSKI & ASSOCIATES PC
11440 WEST BERNARDO CT
SUITE 375
SAN DIEGO CA 92127

In re
Kennedy, et al.
Application No. 10/310,215
Filed: December 6, 2002
Patent No. 6,780,028
Issued: August 24, 2004

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed January 4, 2010.

The fee deficiency submission under 37 CFR 1.28 of $580 is hereby **accepted**.

The change of status to large entity has been entered.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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GIFFORD, KRASS, GROH,
SPRINKLE & CITKOWSKI, P.C
PO BOX 7021
TROY, MI 48007-7021

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JAN 2 8 2005

OFFICE OF PETITIONS

In re Application of

Charles R. Murray

Application No. 10/310,221

Filed: December 5, 1002

Attorney Docket No. PPI-12002/08

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 27, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 14, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained within the allowable period. Accordingly, the application became abandoned on April 15, 2004. A Notice of Abandonment was mailed September 28, 2004.

The divisional application filed September 27, 2004, is noted, and is being directed to Office of Initial Patent Examination for further processing. A filing receipt denoting a serial number and filing date of the divisional application is forthcoming.

The application is being directed to Technology Center 3700, GAU 3727 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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HOLLINGSWORTH & FUNK, LLC
SUITE 125
8009 34TH AVENUE SOUTH
MINNEAPOLIS, MN 55425

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AUG 29 2007

Technology Center 2100

In Re Application: :
Pekko Orava :
Appl No. 10/310,222 : WITHDRAW FROM ISSUE
Filed: December 05, 2002 : FEE NOT PAID
Attorney Docket No.: KOLS.022PA :
For: ADDRESSING IN WIRELESS LOCAL AREA NETWORKS

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(a).

The above-identified application is withdrawn from issue before payment of the issue fee to determine patentability.

Patent and Trademark Office records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and 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 specified Deposit Account.

The application is being forwarded to the examiner for action.

Paul Sewell
Acting Director, Technology Center 2100
Computer Architecture, Software
And Electronic Commerce

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Paper No. 8

Fulbright & Jaworski, LLP
600 Congress Avenue
Suite 2400
Austin, TX 78701

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OFFICE OF PETITIONS

In re Application of	:	
Robert L. Kallenbach	:	
Application No. 10/310,226	:	ON PETITION
Filed: December 5, 2002	:	
Attorney Docket No. UVMO:025US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 14, 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 18, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. 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 after midnight June 18, 2003.

In response, petitioner submitted with the instant petition $665 for the petition to revive fee, an executed Oath/Declaration, and the $65 surcharge for the late filing of the Oath/Declaration.

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 the undersigned at (703) 308-6711.

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

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TECHNOLOGY CENTER 2600

FINNEGAN, HENDERSON, FARABOW
GARRETT & DUNNER L.L.P.
1300 I STREET, N.W.
WASHINGTON, DC 20005-3315

In re Application of
Sreen RAGHAVAN, et al.
Application No. 10/310,255
Filed: December 4, 2002
For: MULTICHANNEL
COMMUNICATIONS TRANSCEIVER

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the Petition to Withdraw the Holding of Abandonment filed May 10, 2005, pursuant to 37 C.F.R. § 1.181(a). No fee is required.

This application was abandoned for failure to file a timely response to the non-final Office action mailed August 9, 2004. A Notice of Abandonment was mailed on March 23, 2005.

Petitioner asserts that the non-final Office action was not received. In support thereof, petitioner provides copies of docket record and mail log and provides a statement that the file jacket and docket records were searched and that the non-final Office action was not received. In addition, petitioner submits a copy of the Revocation of Power of Attorney and Grant of New Power of Attorney with change of correspondence address bearing the stamped postcard date of July 17, 2003.

The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the Practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. 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), section II. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Petitioner has satisfied the requirements set forth above. In addition, a review of the record finds that the U.S. Postal Service returned the original non-final Office action mailed August 9, 2004 as undeliverable on August 12, 2004. Since the Change of Correspondence Address was not matched with the file, there was an obvious irregularity in the mailing of the non-final Office action on August 9, 2004, as it was mistakenly mailed to an incorrect correspondence address. The Patent and Trademark Office regrets any inconvenience to Petitioner. Accordingly, the Notice of Abandonment is vacated and the holding of abandonment is withdrawn.

The petition is **GRANTED.**

Due to the time lapse from the previous Office action, the file will be forwarded to the examiner for updating the search and the Office action as appropriate. The shortened statutory period for reply will be set to run from the mailing date of the new action.

It is noted that the Revocation of Power of Attorney and Grant of New Power of Attorney filed with the instant petition is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

Doris To
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 4

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

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APR 2 8 2003

OFFICE OF PETITIONS

In re Application of :
Taylor :
Application No. 10/310,256 :
Filed: December 4, 2002 :
Attorney Docket No. 4372.2US (99-1187.02/US) :

DECISION ON PETITION

This is a decision in response to the "Response to Notice of Omitted Items" filed February 12, 2003. The paper will be treated as a petition requesting, in effect, that Figures 9 and 9a filed on February 12, 2002, be entered as part of the original disclosure.

The petition is **dismissed**.

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

The application was filed on December 4, 2002. On January 22, 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 December 4, 2002, and advising applicants that Figures 9 and 9a appeared to have been omitted.

In response, the present petition was filed.

The instant petition is accompanied by copies of Figures 9 and 9a. However, the petition is not accompanied by any evidence that Figures 9 and 9a were filed on December 4, 2002.

All the evidence present in the file has been carefully considered, but is not persuasive that Figures 9 and 9a were submitted with the original application.

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

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

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

Since applicants have not filed a petition under 37 CFR 1.182 requesting February 12, 2003, the date the missing pages were filed, as the filing date, the pages filed on February 12, 2003, will not be entered.

An amendment to the specification deleting references to the missing pages should be filed prior to the first USPTO action in order to avoid further delays in the examination of the application. In the alternative, if petitioner desires for the examiner to consider pages which were not submitted as part of the original disclosure, then petitioner may seek to submit some or all of those pages as a formal amendment. Any such amendment will, of course, be reviewed by the examiner for new matter. See MPEP 608.02(a).

If a request of reconsideration, or petition under 37 CFR 1.182, is not filed within two months, the file will be returned to the Office of Initial Patent Examination for further processing with a filing date of December 4, 2002, using the drawings filed on that date.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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OFFICE OF PETITIONS

In re Application of
Taylor
Application No. 10/310,256
Filed: December 4, 2002
Attorney Docket No. 4372.2US (99-1187.02/US)

DECISION ON PETITION

This is a decision in response to the "Response to Notice of Omitted Items" filed February 12, 2003. The paper will be treated as a petition requesting, in effect, that Figures 9 and 9a filed on February 12, 2002, be entered as part of the original disclosure.

The petition is **dismissed**.

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

The application was filed on December 4, 2002. On January 22, 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 December 4, 2002, and advising applicants that Figures 9 and 9a appeared to have been omitted.

In response, the present petition was filed.

The instant petition is accompanied by copies of Figures 9 and 9a. However, the petition is not accompanied by any evidence that Figures 9 and 9a were filed on December 4, 2002.

All the evidence present in the file has been carefully considered, but is not persuasive that Figures 9 and 9a were submitted with the original application.

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

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

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

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Since applicants have not filed a petition under 37 CFR 1.182 requesting February 12, 2003, the date the missing pages were filed, as the filing date, the pages filed on February 12, 2003, will not be entered.

An amendment to the specification deleting references to the missing pages should be filed prior to the first USPTO action in order to avoid further delays in the examination of the application. In the alternative, if petitioner desires for the examiner to consider pages which were not submitted as part of the original disclosure, then petitioner may seek to submit some or all of those pages as a formal amendment. Any such amendment will, of course, be reviewed by the examiner for new matter. See MPEP 608.02(a).

If a request of reconsideration, or petition under 37 CFR 1.182, is not filed within two months, the file will be returned to the Office of Initial Patent Examination for further processing with a filing date of December 4, 2002, using the drawings filed on that date.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY, UT 84110

Mail Date: 04/20/2010

Applicant	: Theodore M. Taylor	: DECISION ON REQUEST FOR
Patent Number	: 7591061	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/310,256	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/04/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **857** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

OSTRAGER CHONG FLAHERTY & BROITMAN, P.C.
570 LEXINGTON AVENUE
FLOOR 17
NEW YORK NY 10022-6894

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AUG 20 2007

OFFICE OF PETITIONS

In re Application of :
Ralph R. Galetti :
Application No. 10/310,275 :
Filed: December 5, 2002 : DECISION ON PETITION
Attorney Docket No.: 02-1095 : UNDER 37 C.F.R. §1.181
Title: PROGRAMMABLE MESSAGES :
FOR COMMUNICATION SYSTEM HAVING :
ONE-BUTTON USER INTERFACE :

This is a decision on the petition filed May 21, 2007, 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 August 4, 2006, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on November 5, 2006. A notice of abandonment was mailed on May 17, 2007.

With the present petition, Petitioner has asserted that a response was submitted on November 6, 2006. It is noted that November 4, 2006 fell on a Saturday.

Petitioner has further submitted a copy of this submission, along with an Electronic Acknowledgement Receipt dated November 6, 2006.

The electronic file has been reviewed, and a copy of this response has been located in the same.

Petitioner has requested that the holding of abandonment in the above-identified application be withdrawn. It is clear that a response was timely submitted on November 6, 2006.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a submission was timely submitted.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the Appeal Brief that was received on November 6, 2006 can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-145

DEC - 6 2004

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DEC - 6 2004

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TC 3600

BEUSSE BROWNLEE WOLTER MORA & MAIRE, P.A.
390 North Orange Avenue
Suite 2500
Orlando, FL 32801

In re application of
Fritz Braun JR.
Application No. 10/310,278 :
Filed: December 05, 2002 :
For: DECONTAMINATING MAILBOX :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on November 01, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**

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

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

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

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

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition C) above.

As to condition C) there is no longer 30 days for the applicant to respond to the outstanding Office action mailed June 15, 2004.

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

SNM/pav: 11/30/04

OIPE JC185 MAR 2 8 2005 PATENT & TRADEMARK OFFICE

AF/ 3677 EFW

PTO/SB/83 (09-04)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/310,278
Filing Date	12/05/2002
First Named Inventor	Fritz Braun, Jr.
Art Unit	3677
Examiner Name	Miller, William L.
Attorney Docket Number	081869-001

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

APPROVED JUN 2 2005

Please withdraw me as attorney or agent for the above identified patent application, and

☑ all the attorneys/agents of record.

☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or

☐ the attorneys/agents associated with Customer Number

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: See attached.

CORRESPONDENCE ADDRESS

1. ☑ The correspondence address is NOT affected by this withdrawal.
2. ☐ Change the correspondence address and direct all future correspondence to:

☐ The address associated with Customer Number:

OR

☐ Firm *or* Individual Name					
Address					
City		State		Zip	
Country					
Telephone				Fax	
Signature					
Name	John N. DeAngelis, Jr.		Registration No.	30,622	
Date	03/22/2005		Telephone No.	(407) 926-7710	

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

OIPE JC185
MAR 2 8 2005
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: **Fritz Braun, Jr.**

Serial No.: **10/310,278**

Filed: **12/05/2002**

Atty. Docket No.: **081869-001**

For: **Decontaminating Mailbox**

Group Art Unit: **3677**

Examiner: **Miller, William L.**

Confirmation No.: **5744**

ATTACHMENT TO REQUEST FOR WITHDRAWAL
AS ATTORNEY OR AGENT

March 23, 2005

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

Dear Sir:

In a request dated October 27, 2004, the undersigned requested withdrawal as attorney of record for the above-identified patent application. That request was "Not Approved" by the Patent Office in a letter mailed on December 6, 2004. Subsequently, an amendment was filed by the undersigned to an outstanding Office Action mailed on June 15, 2004, and now a final Office Action is pending. The undersigned has continued in his efforts to locate the inventor, but without success as described below. Thus, the undersigned again requests withdrawal from representation under the provisions of 37 C.F.R. 10.40(c)(1)(iv) and (vi).

The undersigned hereby repeats the factual commentary as set forth in the previous request for withdrawal.

The patent application was filed on December 5, 2002. The Applicant participated in the preparation of the patent application and supplied certain information to the undersigned in accordance with standard patent practices. However, since May of 2003,

attempts to reach and contact the Applicant have been unsuccessful. In particular, certain additional information was requested relative to the Information Disclosure Statement after filing of the application, but that information was not forthcoming in response to several requests. Later, the Applicant's input was sought in response to the Office Action of June 15, 2004

At various times during the representation mail to the Applicant's last provided address was returned and telephone calls went unanswered. Also, the Applicant's voice mailbox, both at his office and at his home, was frequently unable to accept additional voice messages. All telephone numbers that we have for the Applicant have since been disconnected. The last contact we have with the Applicant (more specifically with his wife) is dated April 22, 2003.

On March 17, 2004, a certified letter was sent to the Applicant relative to a restriction requirement issued by the Patent and Trademark Office. The letter was returned by the Post Office with an indicated change of address. Subsequent mailings were sent to the new address provided by the Post Office. When one of the letters to the new address was unexpectedly returned, the undersigned personally paid a visit to the site of the new address, only to learn that the "Fritz Braun" residing at that address was not the Applicant. Thus the undersigned responded to the restriction requirement without the benefit of advice from the Applicant.

When the June 15, 2004 Office Action was received, additional attempts in earnest were made to contact the Applicant. The undersigned personally visited the Applicant's original home address in an effort to determine where the Applicant may have relocated to. The current occupant at that address was unable to provide any information as to whether the previous occupant was Fritz Braun or the current address of the previous occupant. Mr. Braun was a prior tenant at that address, whereas the current occupant purchased the residence from the previous owner.

The undersigned also visited Mr. Braun's local business address, only to learn that the office suite was occupied by another business entity. The undersigned further called the building landlord and learned that Mr. Braun had relinquished the rental property at least two years previous. The landlord was unable to provide any information as to his whereabouts.

Mr. Braun had indicated early in the relationship that he was a Director for a Brazilian company and spent several months of the year in Brazil. Telephone calls and faxes sent to Mr. Braun's telephone numbers in Brazil were not successfully completed, as those Brazilian numbers are no longer in service.

E-mails sent to the various e-mail addresses supplied by Mr. Braun have all gone unanswered.

The undersigned and his administrative assistant (Pam Pagel) have undertaken all reasonable (and unreasonable) measures to locate Mr. Braun, all of which have been unsuccessful. It further appears that Mr. Braun is no longer interested in pursuing the application as he has made no independent effort to contact us.

Since denial of the previous request to withdraw, the undersigned filed an Amendment to the previous non-final Office Action. That Amendment was filed on December 15, 2004. Upon receipt of that Amendment and subsequent searching, Examiner Miller telephoned the undersigned to indicate that additional art had been found and the final Office Action would be issued. That final Office Action was mailed on March 7, 2005 and has now been received.

In the meantime, the undersigned has continued with his efforts to locate Mr. Braun. I was able to track down his wife (more exactly, ex-wife) from a piece of correspondence in the file. Using a web search engine, the undersigned determined her current place of employment and her e-mail address from a directory of the university where she is now employed. I sent her an e-mail on December 15, 2004, introducing myself and requesting contact information for her husband. After several weeks without an answer, I telephoned her and learned that she had divorced Mr. Braun and had no contact with him for at least seven months. She did advise that perhaps one of their children might be able to supply the Applicant's e-mail address. Notwithstanding her promise, I never received an e-mail address. I again corresponded with her by e-mail on March 6, 2005, again requesting Mr. Braun's contact information, but no reply has been received.

Thus, the undersigned requests withdrawal under the provisions of 37 C.F.R. 10.40(c)(1)(iv) and (vi) as it is not possible to continue representing Mr. Braun without additional assistance and instructions from him as to the relevance of the prior art and whether he wishes to continue prosecution of this application. Additionally, Mr. Braun has

an outstanding balance due of $5700. Approximately, $4900 of this amount has been due since the application was filed. The additional amount represents charges for preparation and filing of the amendment in response to the June 2004 Office Action. Thus, the provisions of 37 C.F.R. 10.40(c)(1)(vi) also provide grounds for withdrawal.

The undersigned again requests favorable consideration of this request. If the Office has any questions regarding this matter, please direct them to the undersigned at the telephone number below.

Respectfully submitted,

John L. DeAngelis, Jr., Esquire
Reg. No. 30,622
Beusse Brownlee Wolter Mora & Maire, P.A.
390 N. Orange Ave., Suite 2500
Orlando, FL 32801
(407) 926-7710

CERTIFICATE OF MAILING

I HEREBY CERTIFY that this Attachment to Request for Withdrawal as Attorney or Agent is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 23rd day of March, 2005.

Pamela A. Pagel

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LOUIS L. DACHS
1794 PALISADES DRIVE
PACIFIC PALISADES CA 90272

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JAN 26 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Richman et al :
Application No.10/310,307 :
Filed: December 5, 2002 :
Attorney Docket Number: P198 :
Title of Invention: LASER SCANNER WITH :
PERIPHERAL SCANNING CAPABILITY :

This is a decision on the petition filed September 10, 2004, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed March 18, 2004. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on June 19, 2004. A Notice of Abandonment was mailed on September 1, 2004.

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

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

Express Mail Label No.: EV 473 991 041 US
Date of Deposit: June 28, 2005

OIPE JC172
JUN 2 8 2005
PATENT & TRADEMARK OFFICE

Attorney Docket No. 24257-002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Adriana T. Guzman *et al.*
Serial No: 10/310,327
Filed: December 4, 2002
For: Systems, Methods and Apparatus for Producing a Frozen Confection

Examiner: Sarah Louise Kuhns
Art Unit: 1761

Approved 9/20/05
Jacqueline M. Stone, Director
Technology Center 1700

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

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT
PURSUANT TO 37 C.F.R. § 10.40(c)(1)(vi)

Sir:

The law firm of MINTZ, LEVIN, COHN, FERRIS, GLOVSKY and POPEO, P.C. ("Mintz") respectfully requests permission to withdraw from all further responsibility in the above identified patent application in accordance with 37 C.F.R. § 10.40(c)(1)(vi).

Mintz respectfully requests withdrawal of all attorneys and agents of record for the above identified patent application that are identified or associated with the Customer Number 30623, and/or are identified in the inventor declaration of record in the above identified patent application.

(2) Last known mailing address of applicant.

The last known mailing address of one of the inventors, namely Andriana Guzman, is:

52 Trowbridge Street, Suite 5
Cambridge, MA 02138

However, the last letter we sent to Ms. Guzman dated May 5, 2005, attached to this request as Exhibit A, returned to our office and was identified as undelivered. A copy of our earlier letter concerning the outstanding Office Action dated January 12,

2005 also is attached as Exhibit A. The January 12, 2005 letter was not returned to our firm.

Since the return of the May 5, 2005 letter, we have sent emails to Ms. Guzman at the email address: atg@geophoenix.com that appear to have been delivered according to our records. Attached as Exhibit B are copies of our email communications to Ms. Guzman, including a Mintz email indicating the required response to an outstanding Office Action dated December 28, 2004 that the U.S. Patent Office issued in the above identified application. In this communication, we requested a retainer for the preparation of the response to the Office Action. Also included as Exhibit B is our latest email communication to Ms. Guzman, indicating that a response to the Office Action was filed on June 28, 2005 along with our request to withdraw Mintz as attorneys of record and from all further responsibility in this patent application.

We believe that Andriana Guzman may be able to receive mail at a business address of Geophoenix. Such address is provided below:

Geophoenix
One Brookline Place, Suite 406
Cambridge, MA 02139

(3) Basis for the request for withdrawal pursuant to 37 C.F.R. § 10.40(c)(1)(vi).

Withdrawal is requested due to the failure of the client, Andriana Guzman, to pay one or more bills for an unreasonable amount of time. Attached as Exhibit C is a screen shot showing the Elite billing system employed by Mintz, indicating invoices dated from 2001 to the present. Attached as Exhibit D is another billing screen shot showing the field labeled "Last Pay," reflecting no retainer was received from the client for preparation of the response to the Office Action dated December 28, 2004 and identifying this matter under our client/matter number 24257-002.

(4) Status of the application.

The undersigned submits herewith in conjunction with the request for withdrawal of the above identified application, a response to the outstanding Office Action dated December 28, 2004, including a request for a three-month petition of time and the requisite fee for a three-month petition. Thus, there is currently no outstanding term for response to any action received from the U.S. Patent Office.

(5) Copies to the inventor/client.

A copy of this request for withdrawal, as well as copies of the Office Action dated December 28, 2004, the cited prior art patents, the response to the Office Action we prepared and filed with the U.S. Patent Office, the three-month petition of time and the transmittal letter have been sent to Ms. Guzman via email at atg@geophoenix.com.

Should the Office have any questions in connection with this request, the Office is invited to telephone the undersigned.

Respectfully submitted,

Carol H. Peters
Registration No. 45,010
Mintz, Levin, Cohn, Ferris,
Glovsky and Popeo, P.C.
Attorneys for Applicants
One Financial Center
Boston, MA 02111
Telephone: 617/348-4914
Facsimile: 617/542-2241

Date: June 28, 2005

TRA 2049102v1

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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JAN 24 2005

OFFICE OF PETITIONS

In re Application of :
Zhou et al. :
Application No. 10/310,330 :
Filed: December 4, 2002 :
Attorney Docket No. 10095/33 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed November 24, 2004, to revive the above-identified application.[1]

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." In the alternative, applicants may wish to file a petition under 37 CFR 1.137(b).

The application became abandoned on June 3, 2004, for failure to timely reply to the Notice of Allowance and Fee(s) Due mailed on March 2, 2004, which set a three-month statutory period to pay the issue fee. A Notice of Abandonment was mailed on July 26, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing

[1]Petitioner requests that the Office consider this petition as a petition for an unintentionally delayed payment of the issue fee in the event that the circumstances are insufficient for the Office to grant a petition for relief under unavoidably delayed payment of the issue fee. Petitioner did not provide an authorization to charge the Deposit Account the fee to consider a petition under 37 CFR 1.137(b). Accordingly, the Office will only treat the merits of the present petition under 37 CFR 1.137(a).

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

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

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

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

This petition lacks items (3) above.

As to item (3), petitioner asserts that the issue fee was not timely paid because former counsel did not forward the Notice of Allowance and Fee(s) Due to Seng-Tiong Ho, a joint inventor and President of Phosistor Technologies, the assignee.

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[2] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be

[2] 35 U.S.C. § 133.

unavoidable, all other conditions of promptness in its rectification being present.[3]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[4] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[5]

In the present petition, Dr. Ho states that he did not became aware of the abandonment of the above-identified application until he received the Notice of Abandonment from his previous counsel on August 20, 2004. Dr. Ho asserts that the application was filed by the law firm of Townsend and Townsend and Crew on December 4, 2002. After the filing of the application, Dr. Ho discontinued their services as he had moved to Illinois. Dr. Ho further asserts that "around August, 2003" he asked Townsend and Townsend and Crew to send him the files and further correspondence from the USPTO.

A review of the written record indicates that the Notice of Allowance was properly mailed to the address of record as it existed on March 2, 2004. Dr. Ho did not submit a revocation of power of attorney or a change of correspondence address to the USPTO prior to the mailing of the Notice of Allowance.

The belated notification to the Office of the change of correspondence address does not constitute proper notification as to establish unavoidable delay. Petitioner is responsible for promptly notifying the Office of any change of address. The

---

[3] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[4] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

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

Office further notes that where an application becomes abandoned as a consequence of a change of correspondence address an adequate showing of "unavoidable" delay requires a showing that applicants exercised due care to promptly notify the Office of the change of address and file a timely notification of the change of address in the application.[6]

In this instance, Dr. Ho relied on Townsend and Townsend and Crew to timely forward to him any correspondence from the USPTO. Dr. Ho provides no explanation as to why he did not take steps to assure timely receipt of USPTO correspondence by requesting a change of correspondence address with the USPTO.

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.[7]

Accordingly, the showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a).

Because petitioner did not provide any showing that the delay was unavoidable within the meaning of 35 USC 151 and 37 CFR 1.137(a), the petition must be **dismissed.**

Alternate Venue:
Petitioner may wish to consider filing a petition under amended 37 CFR 1.137(b). 37 CFR 1.137(b) provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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;

---

[6] MPEP 711.03(c)(III)(C)(2)

[7] 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).

(2) The petition fee as set forth in § 1.17(m), ($750.00)

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

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

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

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

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

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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OFFICE OF PETITIONS

In re Application of	:	
Zhou et al.	:	
Application No. 10/310,330	:	ON PETITION
Filed: December 4, 2002	:	
Attorney Docket No. 10095/33	:	

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

The petition is **granted**.

The application became abandoned on June 3, 2004, for failure to timely reply to the Notice of Allowance and Fee(s) Due mailed on March 2, 2004, which set a three-month statutory period to pay the issue fee. A Notice of Abandonment was mailed on July 26, 2004.

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

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (703) 305-8497.

Telephone inquiries specifically concerning 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

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

Houston IP Department
JACKSON WALKER L.L.P.
1401 McKinney St.
Suite 1900
Houston, TX 77010

Mail Date: 04/21/2010

Applicant	: Roger A. Niederland	: DECISION ON REQUEST FOR
Patent Number	: 7623032	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/310,396	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/05/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2119** 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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DIW May-06

MIRUS CORPORATION
505 SOUTH ROSA RD
MADISON WI 53719

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MAY 17 2006
OFFICE OF PETITIONS

In re Application of	:	
Wolff et al.	:	DECISION ON PETITION
Application No. 10/310,398	:	UNDER 37 CFR 1.78(a)(3)
Filed: 5 December, 2002	:	
Atty Docket No. Mirus.033.01	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 14 October, 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 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 Commissioner may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed 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) 272-3131. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1633 for appropriate action on the amendment filed 14 October, 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 applications.

Frances Hicks
Lead Paralegal
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/310,398	12/05/2002	1633	435	Mirus.033.01		12	1

CONFIRMATION NO. 6152

CORRECTED FILING RECEIPT

OC000000018781542

25032
MIRUS CORPORATION
505 SOUTH ROSA RD
MADISON, WI 53719

Date Mailed: 05/12/2006

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)

Jon A. Wolff, Madison, WI;
Julia Hegge, Monona, WI;
James E. Hagstrom, Middleton, WI;
Vladimir G. Budker, Middleton, WI;

Power of Attorney:

Mark Johnson--35909

Domestic Priority data as claimed by applicant

This application is a CIP of 09/447,966 11/23/1999 PAT 6,627,616
which is a CIP of 09/391,260 09/07/1999 ABN
which is a DIV of 08/975,573 11/21/1997 PAT 6,265,387
which is a CON of 08/571,536 12/13/1995 ABN

Foreign Applications **Acceptable Request to Retrieve Priority Application Received?**

If Required, Foreign Filing License Granted: 01/16/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/310,398

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Nucleic acid injected into hapatic vein lumen and delivered to primate liver

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of

technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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GARLICK HARRISON & MARKISON
P.O. BOX 160727
AUSTIN, TX 78716-0727

Mail Date: 04/20/2010

Applicant	: Ashvin Chheda	: DECISION ON REQUEST FOR
Patent Number	: 7602722	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/310,401	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/04/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1611** 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.

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)
6666904	2003-12-23	10310411	2002-12-05	TRET-01

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/J. Dwight Poffenberger, Jr./	Date (YYYY-MM-DD)	2008-07-25
Name	J. Dwight Poffenberger, Jr.	Registration Number	35324

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6666904
Issue Date: December 23,2003
Application No. 10310411
Filed: December 5,2002
Attorney Docket No. 1749.001US1

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

This is a decision on the electronic petition, filed July 25,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 25,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

Dougherty, Clements & Hofer
F. Rhett Brockington
1901 Roxborough Road
Charlotte, NC 28211

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APR 2 2 2003

OFFICE OF PETITIONS

In re Application of
Spirkowyc et al.
Application No. 10/310,435
Filed: December 5, 2002
Attorney Docket No. 3268

ON PETITION

This is a decision on the petition filed January 22, 2003, to accord the above-identified application a filing date of December 4, 2002, instead of December 5, 2002.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.10." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

37 CFR 1.10(c) states,

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

As to (3), the true copy of the "Express Mail" mailing label which petitioner submitted did not show the "date-in" as December 4, 2002. The "Express Mail" mailing label, along with the copy of the United State Postal Service tracking and confirmation page, clearly shows the "date-in" as December 5, 2002, which matches the current filing date.

A Petition under 37 CFR 1.10 does not require the regular $130.00 petition fee. After reviewing

the application, it appears that the petition fee has been charged twice. Therefore, a refund of $260.00 will be credited to petitioner's credit card.

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

By mail before May 1, 2003: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By mail after May 1, 2003: 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

If a renewed petition is not filed within two months, the file will be forwarded to the Office of Initial Patent Examination.

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

John R. Ross, III
Ross Patent Law Office
P.O. Box 2138
Del Mar CA 92014

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FEB 22 2006

OFFICE OF PETITIONS

In re Application of :
Shahnazmir Brown :
Application No. 10/310,447 : ON PETITION
Filed: December 5, 2002 :
Title: Fingernail Holder for Fingernail Nail Polish Bottle :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed January 10, 2006.

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

This above-identified application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office Action of April 20, 2005. The final Office Action set a three (3) month shortened statutory period for reply. An amendment was filed on July 15, 2005. An Advisory Action was mailed on August 2, 2005 informing applicant the response filed did not place the application in condition for allowance. Accordingly, this application became abandoned on July 21, 2005. A Notice of Abandonment was mailed on January 4, 2006.

Petitioner asserts that he spoke to Examiner Davis on October 20, 2005 who purportedly told him that a Notice of Allowance based on the amendment filed on July 15, 2005 would be issued. Petitioner says he was told no additional action was required on behalf of applicant before the Notice of Allowance would be mailed. Petitioner request that the abandonment be withdrawn and a Notice of Allowance be issued.

A review of the Office record shows that an Advisory Action was mailed on August 21, 2005 in response to the amendment submitted on July 15, 2005. The Advisory Action clearly states that the July 15, 2005 amendment failed to place the application in condition for allowance. The Advisory Action further advised petitioner of the need to file an amendment that would place the application in condition for allowance, a Notice of Appeal and accompanying fee, or a Request for Continued Examination (RCE) and accompanying fee or the application would be held abandoned. The Advisory Action also provided information regarding extensions of time pursuant to 37 CFR 1.136.

As such petitioner was on notice of the need to file a reply and any extension of time fees required. Petitioner's reliance upon oral advice from a USPTO employee does not override the written requirements presented in the Advisory Action. Further, pursuant to

37 CFR 1.2, all business with the Patent and Trademark Office should be transacted in writing. 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.

Petitioner may wish to file a petition to revive under 37 CFR 1.137.

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

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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John R. Ross, III
Ross Patent Law Office
P.O. Box 2138
Del Mar CA 92014

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JUL 14 2006
OFFICE OF PETITIONS

In re Application of
Shahnaz Brown
Application No. 10/310,447
Filed: August 5, 2002
Title of Invention: Fingernail Holder for Fingernail Polish Bottle

Decision on Petition

This is a decision on the petition under 37 CFR §1.137(b), filed May 23, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office Action of April 20, 2005. The final Office Action set a three (3) month shortened statutory period for reply. An amendment after final Office Action was filed on July 15, 2005. An Advisory Action mailed on August 2, 2005 informed petitioner the application was not placed in condition for allowance. No extension of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on July 21, 2005. A Notice of Abandonment was mailed January 4, 2006.

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

This application is being forwarded to Technology Center 3600 for further processing.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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NEW YORK, NY 10112-4498

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APR 1 0 2008

OFFICE OF PETITIONS

In re Patent No. 7,241,464	:	
Issue Date: July 10, 2007	:	
Application No. 10/310,455	:	ON PETITION
Filed: December 5, 2002	:	
Attorney Docket No. A33718PCT USA-B	:	

This is a decision on the petition filed November 13, 2007, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAIL

NOV 1 5 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

JUNIPER NETWORKS, INC.
ATTN: ALLEN M. LO
1194 N. MATHILDA AVENUE
SUNNYVALE, CA 94089

In re Application of :
Sindhu, et al : Withdrawal From Issue
Application No. 10/310,462 :
Filed: February 5, 2003 :
Title: MEMORY ORGANIZATION IN A SWITCHING DEVICE

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

The application is being withdrawn to permit reopening of prosecution due to unpatentability of one or more claims.

Patent and Trademark Office records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and 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 specified Deposit Account.

Telephone inquiries should be directed to Seema Rao at (571) 272-3174.

The application is being forwarded to the examiner for action.

Jin F. Ng
Director, 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

Paper No. None

JUNIPER NETWORKS, INC.
ATTN: ALLEN M. LO
1194 N. MATHILDA AVENUE
SUNNYVALE CA 94089f

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MAR 3 1 2005

OFFICE OF PETITIONS

In re Application of Pradeep S. Sindhu et al. Application No. 10/310,462 Filed: December 4, 2002 Attorney Docket No. JNP-0003.01 Title: MEMORY ORGANIZATION IN A SWITCHING DEVICE	: : : : : : :	DECISION ON PETITION

This is a decision on the petition filed February 28, 2005, requesting that the above-identified application be accorded a filing date of December 4, 2002, with Figure 2B as part of the original disclosure of the application.

The application was deposited on December 4, 2002. However, on January 21, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application – Filing Date Granted" (notice) stating that the application had been accorded a filing date, and advising applicants that it appeared as though the application was deposited without Figure 2B. The notice set a two-month period for response.

On February 5, 2003, Petitioner submitted a petition under 37 C.F.R. §1.182, along with Figure 2B, a copy of the notice, and the petition fee. It does not appear that Petitioner submitted an amendment requesting the entry of Figure 2B.

Upon receipt of the petition and Figure 2B on February 5, 2003, the Office changed the filing date to the date of receipt of the petition and drawings – February 5, 2003.

The Instant Petition

Petitioner has filed the instant Petition to correct the filing date of the application to December 4, 2002, including Figure 2B. Petitioner contends that although this figure was omitted on filing, it was constructively included, through incorporation by reference.

The filing date

It is noted that the filing date should not have been changed. As such, the Office erred in granting the latter filing date to Petitioner. For this reasons, the petition under 37 CFR §182 is **GRANTED**. The application will receive a filing date of December 4, 2002.

Incorporation by Reference

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. The specification indicates that the instant application is a continuation of application 08/90106, and the Utility Patent Application Transmittal sheet indicates that the entire disclosure of the parent application is incorporated by reference. However, it is noted that portion 18 of the Utility Patent Application Transmittal sheet, the portion which contains the incorporation by reference statement, contains an error such that the parental application is not properly identified. Applicant has failed to list the complete serial number of the parent application. A further review of the Utility Patent Application Transmittal sheet reveals that the Transmittal contained sufficient identifiers to allow an incorporation by reference of the prior application (Examiner and Group Art Unit). See MPEP 502.

Regarding the incorporation by reference statement, Section 201.06(c) of the MPEP sets forth, in part:

an applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The incorporation by reference statement can only be relied upon to permit the entering of a portion of the prior application into the continuation or divisional application when the portion of the prior application has been inadvertently omitted from the submitted application papers in the continuation or divisional application. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition (emphasis added) provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference.

Figure 2B

The figure submitted with the petition should not have been entered, as it does not appear that Petitioner submitted an amendment directing its entry. However, it appears that the Examiner has improperly entered the Figure without this amendment. Petitioner may wish to file this amendment, so as to complete the record.

No petition fee has been charged to Petitioner's Deposit Account. The petition fee associated with the previous petition will not be refunded, as the previous petition was not necessitated by any error on the part of the Office.

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 unless a Change of Correspondence Address Form (PTO/SB/122) is submitted for the above-identified application. A blank Change of Correspondence Address Form (PTO/SB/122) may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 4, 2002.

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

cc: LEDELL,BRIAN
Harrity & Snyder, LLP
11240 Waples Mill Road, Suite 300
Fairfax, VA 22030

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

JUNIPER NETWORKS, INC.
ATTN: ALLEN M. LO
1194 N. MATHILDA AVENUE
SUNNYVALE CA 94089f

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MAR 3 1 2005

OFFICE OF PETITIONS

In re Application of
Pradeep S. Sindhu et al.
Application No. 10/310,462
Filed: December 4, 2002
Attorney Docket No. JNP-0003.01
Title: MEMORY ORGANIZATION IN A SWITCHING DEVICE

DECISION ON PETITION

This is a decision on the petition filed February 28, 2005, requesting that the above-identified application be accorded a filing date of December 4, 2002, with Figure 2B as part of the original disclosure of the application.

The application was deposited on December 4, 2002. However, on January 21, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application – Filing Date Granted" (notice) stating that the application had been accorded a filing date, and advising applicants that it appeared as though the application was deposited without Figure 2B. The notice set a two-month period for response.

On February 5, 2003, Petitioner submitted a petition under 37 C.F.R. §1.182, along with Figure 2B, a copy of the notice, and the petition fee. It does not appear that Petitioner submitted an amendment requesting the entry of Figure 2B.

Upon receipt of the petition and Figure 2B on February 5, 2003, the Office changed the filing date to the date of receipt of the petition and drawings – February 5, 2003.

The Instant Petition

Petitioner has filed the instant Petition to correct the filing date of the application to December 4, 2002, including Figure 2B. Petitioner contends that although this figure was omitted on filing, it was constructively included, through incorporation by reference.

The filing date

It is noted that the filing date should not have been changed. As such, the Office erred in granting the latter filing date to Petitioner. For this reasons, the petition under 37 CFR §182 is **GRANTED**. The application will receive a filing date of December 4, 2002.

Incorporation by Reference

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. The specification indicates that the instant application is a continuation of application 08/90106, and the Utility Patent Application Transmittal sheet indicates that the entire disclosure of the parent application is incorporated by reference. However, it is noted that portion 18 of the Utility Patent Application Transmittal sheet, the portion which contains the incorporation by reference statement, contains an error such that the parental application is not properly identified. Applicant has failed to list the complete serial number of the parent application. A further review of the Utility Patent Application Transmittal sheet reveals that the Transmittal contained sufficient identifiers to allow an incorporation by reference of the prior application (Examiner and Group Art Unit). See MPEP 502.

Regarding the incorporation by reference statement, Section 201.06(c) of the MPEP sets forth, in part:

an applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The incorporation by reference statement can only be relied upon to permit the entering of a portion of the prior application into the continuation or divisional application when the portion of the prior application has been inadvertently omitted from the submitted application papers in the continuation or divisional application. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition (emphasis added) provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference.

Figure 2B

The figure submitted with the petition should not have been entered, as it does not appear that Petitioner submitted an amendment directing its entry. However, it appears that the Examiner has improperly entered the Figure without this amendment. Petitioner may wish to file this amendment, so as to complete the record.

No petition fee has been charged to Petitioner's Deposit Account. The petition fee associated with the previous petition will not be refunded, as the previous petition was not necessitated by any error on the part of the Office.

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 unless a Change of Correspondence Address Form (PTO/SB/122) is submitted for the above-identified application. A blank Change of Correspondence Address Form (PTO/SB/122) may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 4, 2002.

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

cc: LEDELL,BRIAN
Harrity & Snyder, LLP
11240 Waples Mill Road, Suite 300
Fairfax, VA 22030

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Paper No. 8

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

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OCT 29 2003

OFFICE OF PETITIONS

In re Application of Scott D. Redmond, et al. Application No. 10/310,498 Filed: December 4, 2002 Attorney Docket No. 006049.P007X	: : : : :	ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed July 14, 2003.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an international application filed on March 14, 2003. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the international application.

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

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

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

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

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

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

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing which sets forth a projected publication date of February 5, 2004 accompanies this decision.

The application file is being forwarded to Technology Center 1700, Group Art Unit 1745, for docketing.

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing (1 page)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 4, 2006

TO SPE OF : ART UNIT 2856

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/310524 Patent No.: 6,973,818

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: The drawing / figure submitted corrects an error in the drawings / figure.

HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Hezron Williams

SPE

2856

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 4, 2006

TO SPE OF : ART UNIT 2856

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/310524 Patent No.: 6,973,818

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

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. 7

Blakely, Sokoloff, Taylor & Zafman
Seventh Floor
12400 Wilshire Boulevard
Los Angeles CA 90025-1030

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MAR 3 1 2003

OFFICE OF PETITIONS

In re Application of
Holwitt
Application No. 10/310,553
Filed: December 4, 2002
Attorney Docket No. 005247.P009
For: COMPOSITIONS AND METHODS OF PRODUCTION AND USE OF POLYDIAZOAMINOTYROSINE

DECISION GRANTING PETITION

This is a decision on the petition entitled, "PETITION FOR REVIEW OF REFUSAL TO ACCORD FILING DATE," filed February 25, 2003 (certificate of mailing date February 20, 2003), requesting, in effect, withdrawal of the Notice of Incomplete Nonprovisional Application (Notice), insofar as it alleges that the application was deposited without drawings . The petition will be treated under 37 CFR 1.53(e).

The application was deposited on December 4, 2002. On January 15, 2003, the Office of Initial Patent Examination mailed a Notice informing petitioner that the application had not been accorded a filing date because the application did not contain drawings.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that the application be accorded a filing date of December 4, 2002 on the basis that 5 sheets of drawing figures were received in the Patent and Trademark Office (PTO) on December 4, 2002. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing December 4, 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 were filed on December 4, 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 December 4, 2002, using the copy of the drawing figures submitted with the instant petition. 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

UNITED STATES 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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APR 24 2006
OFFICE OF PETITIONS

F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY NY 11797

In re Application of	:	
Thomas Gray	:	
Application No. 10/310,558	:	ON PETITION
Filed: December 5, 2002	:	
Attorney Docket No. 8673-122 (8061-777/SJP)	:	

This is a decision on the petition, filed April 21, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on January 9, 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 2614 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. _____

Date : April 24, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Thomas Gray
Application No. :10/310,558
Filed :December 5, 2002

The above-identified application has been assigned Patent No. 7,035,389 and an issue date of April 25, 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 April 25, 2006:

"All reference to Patent No. 7,035,389 to Thomas Gray of Canada for PRO-ACTIVE FEATURES FOR TELEPHONY appearing in the Official Gazette of April 25, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON VA 22202

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NOV 15 2007

OFFICE OF PETITIONS

In re Patent No. 6,931,203	:	
Issue Date: August 16, 2005	:	
Application No. 10/310,564	:	DECISION ON PETITION
Filed: December 5, 2002	:	
Attorney Docket No. 8075-1026-1	:	

This is a decision on the petition under 37 CFR 1.182, filed April 10, 2007, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

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

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. Inquiries regarding the issuance of a duplicate Letters Patent may be directed Krystal Paige in the Publishing Division at (703) 308-9250, Ext. 139.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor (Fax No. (571) 270-9937

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THOMPSON COBURN LLP
ONE US BANK PLAZA
SUITE 3500
ST. LOUIS, MO 63101

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FEB 01 2007

OFFICE OF PETITIONS

In re Application of	:
Everette C. Burdette et al	:
Application No. 10/310,565	: DECISION GRANTING PETITION
Filed: December 5, 2002	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 37340/37412	:

This is a decision on the petition under 37 CFR 1.137(b), filed June 26, 2006, 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 July 20, 2006, which set a shortened statutory period for reply of three (3) months. A three month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on January 23, 2007 (January 21, 2007, the due date, is a Sunday).

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply (request for continued examination (RCE), $395 fee therefor, and submission as required by 37 CFR 1.114), (2) the $750 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of July 20, 2006 is accepted as having been unintentionally delayed.

Extensions of time under 37 CFR 1.136 are available only if asked for "prior to or with the response." In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response expired. Therefore, no extension fees are due on a petition for revival. In view thereof, the extension of time fee submitted with the petition is unnecessary and will be refunded to petitioner's deposit account as authorized.

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

This matter is being referred to Technology Center AU 3737 for processing the RCE and for appropriate action in the normal course of business on the submission under 37 CFR 1.114.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8-22-08

TO SPE OF : ART UNIT 2154

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/310572 Patent No.: 7225263

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

FOR IFW FILES: should claims be approved

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

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

FOR PAPER FILES:

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

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

E Young

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

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

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

Comments: _____

/Nathan Flynn/

Nathan Flynn SPE 2154

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON VA 22202

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JUN 26 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of
Masayuki Toda et al.
Application No. 10/310,578
Filed: December 5, 2002
Attorney Docket No. 8075-1026

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

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely reply to the final Office Action mailed July 13, 2005. Accordingly, a Notice of Abandonment was mailed February 10, 2006.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

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

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

The petition does not satisfy requirement (1) above.

The application became abandoned for failure to file a response within the meaning of 37 CFR 1.113 to the final rejection of July 13, 2005, within the time period for response. The only proper reply to a final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application. Since the amendment submitted with the petition has been referred to the examiner, who has indicated that the amendment still does not prima facie place the application in condition for allowance, the response required for a renewed petition must be a Notice of Appeal and requisite fee, or the filing of a continuing application under the terms set forth in 1031 O.G. 11.

Petitioner must submit a proper reply to the final Office action mailed on July 13, 2005, with any renewed petition. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay.**

A courtesy copy of an Advisory Action is included.

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/310,578	Applicant(s) TODA ET AL.	
	Examiner Richard Bueker	Art Unit 1763	

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

THE REPLY FILED 27 March 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

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

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

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

NOTICE OF APPEAL

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

AMENDMENTS

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

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-4*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

Richard Bueker

Richard Bueker
Primary Examiner
Art Unit: 1763

Continuation of 3. NOTE: All of the proposed additions to lines 9-11, line 14 and lines 16-17 of proposed amended claim 1 present new issues after Final.

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745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON VA 22202

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OFFICE OF PETITIONS

In re Application of
Masayuki Toda et al.
Application No. 10/310,578
Filed: December 5, 2002
Attorney Docket No. 8075-1026

ON PETITION

This is a decision on the renewed petition, filed August 25, 2006 under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office Action mailed July 13, 2005. Accordingly, a Notice of Abandonment was mailed February 10, 2006. A petition filed March 27, 2006 was dismissed in a decision mailed June 26, 2006 because a proper response to the Final Office Action was not included with the petition.

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[1]A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

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

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

Comes now petitioner with the instant renewed petition and a Request for Continued Examination (RCE) as the response to the final rejection. Petitioner requests that the amendment filed March 27, 2006 be considered as the submission required under 37 CFR 1.114.

All other requirements having been met, this application is being forwarded to Technology Center 2126 for processing of the RCE.

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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Paper No. 6

THOMAS B. RYAN
EUGENE STEPHENS & ASSOCIATES
56 WINDSOR ST
ROCHESTER, NY 14605-2937

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MAY 1 5 2003

OFFICE OF PETITIONS

In re Application of
Uland
Application No. 10/310,580
Filed: December 5, 2002
Attorney Docket No. Uland 12/02

ON PETITION

This decision concerns the May 9, 2003 "Petition for Correction of Application Filing Date under 37 CFR 1.10."

The petition is **GRANTED**.

The petition requests a filing date of December 5, 2002 rather than the presently accorded filing date of December 4, 2002, on the basis that the application was deposited on December 5, 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 "EV123985734US." The same 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 USPS "Express Mail" database available to the PTO that the package mailed under this label had been accepted by the USPS on December 5, 2002 at 4:46 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 December 5, 2002, and for mailing of 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.

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

RC Tang
Petitions Attorney
Office of Petitions

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

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OFFICE OF PETITIONS

In re Patent No. 7,196,083 :
Issued: March 27, 2007 :
Application No. 10/310,600 : ON PETITION
Filed: December 4, 2002 :
Attorney Docket Number: KINE-012CON :

This is a decision on the petition, filed October 8, 2008, under 37 CFR 3.81(b)[1] and for a certificate of correction to correct the assignee's name on the front of the Patent.

The petition is **DISMISSED**.

Petitioner argues that the assignee is QLT, INC., and not OLT, INC. as was inadvertently indicated on the PTL-85(b) Issue Transmittal Form submitted December 19, 2006 with the issue fee payment. Accordingly, petitioner argues that the Patent incorrectly issued in the name of OLT, INC. and requests that a certificate of correction be issued to correctly identify the assignee as QLT, INC.

U.S. Patent and Trademark Office assignment records disclose that an assignment to KINETIC PHARMACEUTICALS INC., was recorded on December 4, 2002 and that a merger agreement was recorded on February 22, 2008 between KINETIC PHARMACEUTICALS INC. and QLT, INC., however the recordation of the merger is dated after the patent issued.

A Certificate of Correction is only appropriate if the patentee's information as printed on the Letters Patent was not correct at the time of issuance of the patent. The requested certificate of correction with QLT, INC. cannot be issued and the petition must be dismissed. Even though the Office assignment records reflected that KINETIC PHARMACEUTICALS INC. was the assignee what is printed on the face of the patent is the information printed on the PTOL-85(b). A certificate of correction would be in order if the information provided on the PTOL-85(b) was different from that included in the Office assignment records and it could be proven that the correct assignment information was recorded prior to the payment of the issue fee.

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

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

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

The only appropriate Certificate of Correction to issue would be one correcting the face of the Patent to reflect that at the time of issue, in accordance with the assignment as recorded, the assignee was KINETIC PHARMACEUTICALS INC.

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

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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CHICAGO IL 60610

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OFFICE OF PETITIONS

In re Application of
Yan Zhou et al.
Application No. 10/310,604
Filed: December 4, 2002
Attorney Docket Number: 021040-000910US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a),[1] to revive the above-identified application, filed November 24, 2004.

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

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

This application became abandoned on September 6, 2004 for failure to timely pay the issue fee due. The Notice of Allowance and Notice of Allowability were mailed June 3, 2004 and the issue fee was due not later than September 3, 2004. Accordingly, a Notice of Abandonment was mailed on October 21, 2004.

Petitioner asserts unavoidable delay in paying the issue fee, in that they had discontinued the service of their prior counsel around August 2003 and that requests to have the files regarding the instant application forwarded from the attorney's of record, were ignored and that as a result, they never received the Notice of Allowance. Petitioners retained the attorneys now of record and filed a revocation and power of attorney on October 5, 2004.

The Commissioner may revive an abandoned application if the delay in responding to

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

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
(2) the petition fee as set forth in 37 CFR 1.17(l);
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and
(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[2] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[3]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[4] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[5]

Petitioner claims to have terminated the services of his attorney nearly a year before he retained new counsel to represent him in this matter but apparently did not take any steps to notify the USPTO that the he was no longer represented by Townsend, Townsend and Crew LLP. Diligent prosecution of this application would have included the petitioners contacting the USPTO, (in light of not being represented by counsel) prior to the mailing of the Notice of Allowance, which would therefore have caused the

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[2]35 U.S.C. § 133.

[3]In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[4]See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

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

Notice of Allowance and Notice of Allowability to have been appropriately mailed.

Petitioner's failure to take any action in furtherance of the his application upon terminating the services of his attorney mitigates away from a showing of unavoidable delay. Rather, the failure to act represents a showing of a lack of diligence on the part of the petitioner and thus since, as he claims, he was not represented by counsel, petitioner is responsible for the proper prosecution of his application. 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] 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.[7]

A review of the record shows that the Notice of Allowance and Notice of Allowability was properly mailed to petitioner's counsel, but was not received by petitioner because of a lack of diligence on the part of the petitioner in retaining new counsel and for not advising the USPTO of the change.

In summary, the showing of record is that rather than unavoidable delay, the delay in paying the issue fee is due to a lack of diligence on the part of petitioner in prosecution of the application. As petitioner has presented no showing of unavoidable delay, the petition will be dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b)[8], which

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[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).

[7]See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

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

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

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

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

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Yan Zhou et al.
Application No. 10/310,604
Filed: December 4, 2002
Attorney Docket Number: 021040-000910US

This is a decision on the petition under 37 CFR 1.137(b),[1] filed February 9, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on September 6, 2004 for failure to timely pay the issue fee due. The Notice of Allowance and Notice of Allowability were mailed June 3, 2004 and the issue fee was due not later than September 3, 2004. Accordingly, a Notice of Abandonment was mailed on October 21, 2004. On November 24, 2004 a petition to revive under 37 CFR 1.137(a) was filed but was dismissed in a decision mailed December 14, 2004.

Comes now the instant petition to revive under the unintentional standard.

Since the issue fee was previously paid with the petition filed November 24, 2004, and all other requirements having been met, this matter is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

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In re Patent of	:	
Douglas et al.	:	
Application No. 10/310,614	:	DECISION
Filed: December 3, 2002	:	ON PETITION
Attorney Docket Number:	:	
42108/37422	:	

This is a decision on the Petition to Revive Unintentionally Abandoned Application or Lapsed Patent (37 CFR 1.137(b), filed November 4, 2004.

The petition is **dismissed**.

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

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed April 7, 2004. The Office action set a three (3) month period for reply.

Applicant filed an Amendment on August 30, 2004; however, the Amendment failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed October 20, 2004.

Having failed to timely and properly reply to the final Office action, the application became abandoned on October 8, 2004.

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

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed); (**2**) the petition fee required by 37 CFR 1.17(m); (**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (**4**) if required, a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). Applicant lacks item (**1**).

As to item (1), Applicant has not submitted a proper reply to the April 7, 2004 Office action. The Amendment, filed with the instant petition on November 4, 2004, fails to place the application in condition for allowance.

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

Derek L. Woods
Attorney/Advisor
Office of Petitions

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JAN 07 2005

OFFICE OF PETITIONS

In re Patent of Douglas et al. Application No. 10/310,614 Filed: December 3, 2002 Attorney Docket Number: 42108/37422	DECISION ON PETITION

This is a decision on the Renewed Petition to Revive Unintentionally Abandoned Application or Lapsed Patent (37 CFR 1.137(b), filed December 27, 2004.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed April 7, 2004. The Office action set a three (3) month period for reply.

Applicant filed an Amendment on August 30, 2004; however, the Amendment failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed October 20, 2004.

Having failed to timely and properly reply to the final Office action, the application became abandoned on October 8, 2004.

Applicant filed a petition and Amendment in response to the final Office action on November 4, 2004; however, the Amendment failed to place the application in condition for allowance. The petition was dismissed in a Decision mailed December 17, 2004.

In response to the Decision dismissing the petition, Applicant files the instant Renewed Petition and Amendment.

This Petition is hereby **granted**.

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). The Amendment in response to the April 7, 2004 Office action is filed with the instant petition. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 1617 for processing of the Amendment, filed December 27, 2004, in due course.

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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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 6

SCHWEGMAN LUNDBERG WOESSNER & KLUTH P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

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AUG 1 4 2003

OFFICE OF PETITIONS

In re Application of :
William R. George et al :
Application No. 10/310,653 : NOTICE
Filed: December 5, 2002 :
Attorney Docket No. 130.055US1 :

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 2664.

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

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Commissioner for Patents
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SUSAN F. JOHNSTON
ATTORNEY AT LAW
P.O. BOX 4449
JOHNSON CITY TN 37602-4449

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AUG 2 5 2008

OFFICE OF PETITIONS

In re Application of :
Kirk J. WOLFGANG :
Application No. 10/310,663 :
Filed: December 04, 2002 :
Attorney Docket No. **JAG10021** :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 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 reply within the meaning of 37 CFR 1.113 to the final Office action, mailed March 08, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 09, 2006.

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 $230 extension of time fee submitted with the petition on March 19, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is

a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

Petitioner failed to provide an amendment that *prima facie* places the application in condition for allowance. (See attached courtesy copy of examiner's advisory 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 hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Please see attached PTOL-303

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/310,663	Applicant(s) JAGER, KIRK WOLFGANG	
	Examiner Vicky A. Johnson	Art Unit 3682	

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

THE REPLY FILED 19 March 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

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

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

NOTICE OF APPEAL

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

AMENDMENTS

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

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

/Vicky A. Johnson/
Primary Examiner, Art Unit 3682

Continuation of 11. does NOT place the application in condition for allowance because: The claims 7 and 21 would not be allowable now after the KSR decision. The claims could be rejected with the references Carey (US 5,660,086) in view of Chang (US 6,402,636).

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SUSAN F. JOHNSTON
ATTORNEY AT LAW
P.O. BOX 4449
JOHNSON CITY TN 37602-4449

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APR 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Kirk W. JAGER	:	
Application No. 10/310,663	:	DECISION ON PETITION
Filed: December 04, 2002	:	
Attorney Docket No. **JAG10021**	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 25, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 08, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A two (2) 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 August 09, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office Action of March 08, 2006 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 3682 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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KENYON & KENYON LLP
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SUITE 700
WASHINGTON, DC 20005

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AUG 0 2 2007

OFFICE OF PETITIONS

In re Application of

Kuhmann, et al.

Application No. 10/310,669

Filed: December 4, 2002

Attorney Docket No. 14066-02201/2003P00073

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed October 17, 2006.

The petition is **granted**.

This application was held abandoned October 22, 2005, after no reply was received to the non-final Office action mailed July 21, 2005. The notice set forth a shortened statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on October 22, 2005. A Notice of Abandonment has not yet been mailed. The instant petition was filed on October 17, 2006. Petitioner maintains that the non-final Office action of July 21, 2005, was never received at the correspondence address of record.

A review of the application file history reveals that on January 20, 2004, and December 1, 2004, requests to revoke the previous power of attorney and appoint a new attorney of record and change the correspondence address of record were filed. The Office did not enter the requests. Consequently, the non-final Office action of July 21, 2005, was mailed to an incorrect address. It is clear that the applicant provided a proper and timely notice of the change of power of attorney and correspondence address. The Office is obligated to send all communications to the correspondence address of record. The evidence is convincing that the non-final Office action was not sent to the correspondence address of record. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded to Technology 2100, GAU 2113 for further processing including treatment of the amendment filed October 17, 2006.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosures: "Notice Regarding Change of Power of Attorney"
"Notice of Acceptance of Power of Attorney"

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/310,669	12/04/2002	Juergen Kuhmann	14066-022001/ 2003P00073

CONFIRMATION NO. 7303

OC000000025117449

32864
FISH & RICHARDSON, P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

Date Mailed: 07/31/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/24/2004.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
NEW ATTORNEY/AGENT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/310,669	12/04/2002	Juergen Kuhmann	14066-022001/ 2003P00073

CONFIRMATION NO. 7303

OC000000025117486

23838
KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Date Mailed: 07/31/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/24/2004.

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

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

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/310,669	12/04/2002	Juergen Kuhmann	14066-022001/ 2003P00073

CONFIRMATION NO. 7303

OC000000025117449

32864
FISH & RICHARDSON, P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

Date Mailed: 07/31/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/24/2004.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
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Paper No. 810

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SUITE 2400
600 CONGRESS AVENUE
AUSTIN, TX 78701-3271

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JUN 3 0 2003

OFFICE OF PETITIONS

In re Application of Droge et al. Application No. 10/310,695 Filed: December 5, 2002 Attorney Docket No. DEBE:019US	DECISION ON PETITION

This is a decision on the "PETITION UNDER 37 C.F.R. 1.53(e)(2) - SECOND PETITION AND REQUEST FOR RECONSIDERATION," filed May 30, 2003, requesting that the above-identified application be accorded a filing date of December 5, 2002, with page 40 of the specification considered part of the original application disclosure.

The petition is **DISMISSED**.

Any request for reconsideration to be timely must be filed within **TWO (2) MONTHS** from the mail date of this decision. This period is not extendable under 37 CFR 1.136(a). See 37 CFR 1.181(f).

Application papers in the above-identified nonprovisional application were filed on December 5, 2002. However, on February 13, 2003, the Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," notifying applicants that the application papers had been accorded a filing date of December 5, 2002; however, page 40 of the specification appeared to have been omitted from the application. In response, applicants timely filed the initial petition under § 1.53(e)(2). The petition was dismissed for failure to submit convincing evidence that page 40 of the specification was among the papers present in the application on filing (Decision mailed May 13, 2003).

On instant request for reconsideration, applicants submitted a copy of the front and back of their return postcard receipt. As stated in MPEP 503, the Office considers a postcard receipt which itemizes and properly identifies the items which are being filed as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. A review of applicants' return postcard receipt reveals that it is stamped with a date of receipt of December 5, 2002, and itemizes and identifies 47 pages of specification (and 4 sheets of drawings) among the papers being filed.

However, a review of the papers considered received in the Office on December 5, 2002, reveals that 56 pages of specification (pp. 1-39, 41-57) and 4 sheets of drawings were deposited in the Office on December 5, 2002. If one did not count pp. 49-57, which contain references and claims, as part of the

"specification" there would be 47 pages of specification but without page 40 (pp. 1-39, 41-48). Thus, it is concluded that Applicants' identification on the postcard of the pages of specification being filed is not convincing that page 40 was among the papers filed on December 5, 2002. Accordingly, the petition is dismissed.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- completion of pre-examination processing with a filing date of December 5, 2002, using the application papers received in the Office on that date (page 40 is **not** considered a part of the original application disclosure); and
- processing of the replies filed March 11, 2003, to the Notice to File Missing Parts mailed February 13, 2003.

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

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

Nancy Johnson

Nancy Johnson
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Paper No. 8

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MAY 1 3 2003

OFFICE OF PETITIONS

In re Application of Droge et al. Application No. 10/310,695 Filed: December 5, 2002 Attorney Docket No. DEBE:019US	DECISION ON PETITION

This is a decision on the "Petition under 37 C.F.R. 1.53(e)(2) to Accord Filing Date," filed March 11, 2003, requesting that the above-identified application be accorded a filing date of December 5, 2002. The petition is properly treated as a request that the application be accorded a filing date of December 5, 2002, with page 40 of the specification considered part of the original application disclosure.

The petition is DISMISSED.

Any request for reconsideration to be timely must be filed within **TWO (2) MONTHS** from the mail date of this decision. This period is not extendable under 37 CFR 1.136(a). See 37 CFR 1.181(f).

Application papers in the above-identified nonprovisional application were filed on December 5, 2002. However, on February 13, 2003, the Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," notifying applicants that the application papers had been accorded a filing date of December 5, 2002; however, page 40 of the specification appeared to have been omitted from the application. (In addition, applicants were required to file the statutory basic filing fee, additional claim fees, an oath or declaration, and the late surcharge under 37 CFR § 1.16(e)).

In reply, applicants timely filed the instant petition (and submitted the missing parts and the late surcharge[1]). Petitioner states that the application including page 40 was deposited in the U.S. Post Office by Express Mail. In support of the petition, petitioner submits a copy of their transmittal letter; a copy of the Specification, Claims and Abstract, as they maintain these items were filed on December 5, 2002; and a copy of their Express Mail Receipt dated December 5, 2002.

---

[1] This decision makes no determination on the sufficiency of the reply to the Notice to File Missing Parts.

Petitioner's arguments and evidence have been considered, but not found persuasive to show that page 40 of the specification was among the papers present in the application on filing. The application file is the Office record of the papers filed in this application. Page 40 is not among the papers present in the file and thus, is not considered a part of the original application disclosure. Petitioner has not submitted convincing evidence to overcome this conclusion.

The transmittal letter submitted reflects the papers that applicant intended to file. Unlike a postcard receipt, a transmittal letter is not reviewed by the Office for verification that the contents of the filing included the items listed thereon. Accordingly, the subsequent submission of a transmittal to show receipt of items in the Office is not convincing.

Furthermore, presenting a copy of the application with page 40 present does not show that page 40 was among the papers filed on December 5, 2002. (For purposes of completing the application, with an otherwise grantable petition, petitioner generally need only supply a copy of the missing page (or figure)).

Finally, evidence of deposit into Express Mail, such as under 37 CFR 1.10(e), applies only in those situations in which the correspondence at issue was lost in toto (i.e., the entire correspondence was not delivered to the Office). Where there is a dispute as to the contents of correspondence submitted to the Office (e.g., an applicant asserts that three sheets of drawings were submitted under 37 CFR 1.10 with an application, but the Office records indicate receipt of only two sheets of drawings with the application), an applicant may not rely upon the provisions of 37 CFR 1.10(e) to establish what document(s) and/or fee(s) were filed in the Office with such correspondence. Rather, where the records of the Office (e.g., the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g., a postcard receipt under MPEP §503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office.)

In this regard, MPEP 503 provides, in pertinent part, that:

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

Petitioner states in the transmittal letter that a postcard receipt was among the papers filed on December 5, 2002. If such a postcard was filed, a copy should be presented on petition.

Accordingly, the petition is dismissed without prejudice to reconsideration upon the timely filing of convincing evidence that page 40 of the specification was present in the application on filing (i.e., a true copy of the front and back of applicant's return postcard receipt).

Given the dismissal of the petition, the request to refund the petition fee is denied.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- completion of pre-examination processing with a filing date of December 5, 2002, using the application papers received in the Office on that date (page 40 is not considered a part of the original application disclosure); and
- processing of the replies filed March 11, 2003, to the Notice to File Missing Parts mailed February 13, 2003.

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to Petitions Attorney Nancy Johnson at 703-305-0309.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Nancy Johnson
Petitions Attorney
Office of Petitions

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4/20/09

Patent No. :7491539
Ser. No. :10/310695
Inventor(s) :PETER Droge and Barbara Enenkel
Issued : 2/17/09
Title : SEQUENCE SPECIFIC DNA RECOMBINATION IN EUKARYOTIC CELLS
Docket No. :

Re: Request for Certificate of Correction

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

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

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

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

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
40l Dulany Street
Alexandria, VA 22314

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

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

A certificate of correction will be issued to correct the remaining errors noted in your request.

Henry Randall
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

Fulbright &Jaworski LLP
SUITE 2400
600 Congress Ave.
Austin, TX 78701-3271

HR

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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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FULBRIGHT & JAWORSKI, LLP
A REGISTERED LIMITED LIABILITY PARTNERSHIP
SUITE 2400
600 CONGRESS AVENUE
AUSTIN, TX 78701-3271

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MAY 1 1 2009

OFFICE OF PETITIONS

In re Patent No. 7,491,539	:	ON PETITION
Issue Date: February 17, 2009	:	
Application No. 10/310,695	:	
Filed: December 5, 2002	:	
Attorney Docket No. DEBE:019US	:	

This is a decision on the petition filed April 3, 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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/310,704	12/05/2002	David G. Grier	40563/159	5794

7590 09/02/2004

DICKINSON WRIGHT PLLC
1901 L STREET, NW, SUITE 800
WASHINGTON, DC 20036-3506

EXAMINER
LAVARIAS, ARNEL C

ART UNIT	PAPER NUMBER
2872	

DATE MAILED: 09/02/2004

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No. 080504

HOWREY SIMON ARNOLD & WHITE LLP
750 BERING DRIVE
HOUSTON, TX 77057

AUG 27 2004

In re Application of:	:	
DAVID G. GRIER	:	
Serial No.: 10/310,704	:	DECISION ON REQUEST TO WITHDRAW
Filed: December 05, 2002	:	FROM RECORD
Attorney Docket No.: **12962.0003.CNUS01**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed June 22, 2004.

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

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

The request is **APPROVED**.

All future communications from the Office will be directed to Dickinson Wright PLLC, at the below address, until otherwise notified by applicant.

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

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

cc: DICKSON WRIGHT PLLC
1901 L STREET, NW, SUITE 800
WASHINGTON, DC 20036-3506

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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RICHARD J. ANDERSON
Fish & Richardson P.C., P.A.
60 South Sixth Street Suite 3300
Minneapolis MN 55402

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MAY 30 2007

OFFICE OF PETITIONS

In re Application of
FARRUGIA, et al.
Application No. 10/310,717
Filed: December 5, 2002
Attorney Docket No. 07039-196002

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 23, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 1, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 2, 2006.

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

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Robert L. Knechtel appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Robert L. Knechtel desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to petitioner herein. However, until otherwise instructed, all future correspondence regarding this application will be directed solely to the above-noted correspondence of record.

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 $510 extension of time fee submitted with the petition on October 23, 2006 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box

1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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

The application file is being referred to Technology Center Art Unit 3743 for consideration of the amendment filed October 23, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: **ROBERT L. KNECTHEL**
10 SOUTH LASALLE STREET, SUITE 3300
CHICAGO, IL 60603

UNITED STATES PATENT AND TRADEMARK OFFICE

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RICHARD J. ANDERSON
FISH & RICHARDSON, P.C., PA
SUITE 3300
60 SOUTH SIXTH STREET
MINNEAPOLIS, MN 55402

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JUN 1 8 2008

In re Application of	:	
Gianrico FARRUGIA, et al	:	
Application No. 10/310,717	:	DECISION ON PETITION
Filed: December 5, 2002	:	TO WITHDRAW
Attorney Docket No. 07039-196002	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 12, 2007.

The request is **APPROVED**.

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

The request was signed by John Dragseth on behalf of all attorneys/agents of record.

All attorneys/agents of record have been withdrawn.

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

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an 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 undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: GIANRICO FARRUGIA
814 5TH STREET, S.W.
ROCHESTER, MN 55902

cc: MARK E. WIEMELT, P.C.
10 SOUTH LASALLE, STREET,
SUITE 3300
CHICAGO, IL 60603

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/310,717	12/05/2002	Gianrico Farrugia	07039-196002

CONFIRMATION NO. 8486

POWER OF ATTORNEY NOTICE

OC000000030536016

RICHARD J. ANDERSON
Fish & Richardson P.C., P.A.
Suite 3300
60 South Sixth Street
Minneapolis, MN 55402

Date Mailed: 06/18/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/12/2007.

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

/dcgoodwyn/

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

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Kirkpatrick Lockhart Nicholson Graham LLP
State Street Financial Center
One Lincoln Street
Boston, MA 02111-2950

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JAN 1 0 2007

OFFICE OF PETITIONS

In re Application of
Gillies et al.
Application No. 10/310,719
Filed: December 4, 2002
Docket No. LEX-020

: DECISION REGARDING PTA

This decision is in response to applicants' "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 35 USC 154(B) AND 37 CFR 1.705(B)" timely[1] filed on October 17, 2006 requesting that the USPTO adjust the patent term adjustment determination at the time of the mailing of the notice of allowance from a determination of six hundred and sixty-six (666) days to a determination of seven hundred and sixty-one (761) days.

Applicants' application for Patent Term Adjustment is **GRANTED**. The Office will *adjust the PAIR calculation* at the time of the mailing of the notice of allowance to reflect this decision, a 761 day adjustment.

Applicants assert that the Office did not meet the requirement of 37 CFR 1.702(a)(1) until March 6, 2006. Applicants assert that the non-final rejection mailed December 07, 2005 was not mailed to the correspondence address of record and thus the 37 CFR 1.702(a)(1) requirement was not met until March 6, 2006 when the non-final rejection was re-mailed to the proper address of record. In addition, applicants assert that the six-day reduction was improper under 37 CFR 1.704(b) because the Office restarted the clock on the mailed action on March 6, 2006 and accordingly, applicants had until June 6, 2006 to reply without reduction under 37 CFR 1.704(b).

Applicants arguments are persuasive. Applicants filed the change of address nine months prior to the mailing of the non-final rejection that was to the incorrect address. Accordingly, the Office should have been aware of the proper mailing address on December 07, 2006. Accordingly, the Office did not mail the action within the meaning of 37 CFR 1.702(a)(1) until March 6, 2006, a seven hundred and sixty-one (761) day delay.[2] In addition, the applicant delay of six days was in error. The Office restarted the period of response on March 6, 2006. Applicant replied on March 13, 2006, within three months. Accordingly, applicant did not fail to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704(b).

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[1]Issue fee paid on October 17, 2006.

[2]The delay began on February 5, 2004 and ended on March 6, 2006.

After the mailing of this decision, the Office will forward the file to the Office of Patent Publication for a prompt issuance of the patent. Any Office delays pursuant to 37 CFR 1.702(a)(4) or 1.702(b) or applicants delays pursuant to 37 CFR 1.704(c)(10) will be adjusted at the time of the mailing of the issue notification letter that is mailed to applicants approximately three weeks prior to the issuance of the patent.

The applicants have submitted the $200.00 fee pursuant to 37 CFR 1.18(e). No additional fees are necessary in deciding this petition.

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

Kery Fries

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

cc: Adjusted Pair Calculation

PALM INTRANET

Day : Tuesday
Date: 1/9/2007
Time: 13:32:46

PTA Calculations for Application: 10/310719

Application Filing Date:	12/04/2002	PTO Delay (PTO):	672
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	6
Post-Issue Petitions:	0	Total PTA (days):	761
PTO Delay Adjustment:	95		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
63	01/09/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	95		
49	07/17/2006	MAIL NOTICE OF ALLOWANCE			
48	07/17/2006	MAIL EXAMINER'S AMENDMENT			
47	07/13/2006	ISSUE REVISION COMPLETED			
46	07/13/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
45	07/13/2006	EXAMINER'S AMENDMENT COMMUNICATION			
44	07/11/2006	NOTICE OF ALLOWABILITY			
43	06/23/2006	DATE FORWARDED TO EXAMINER			
42	06/19/2006	AMENDMENT AFTER FINAL REJECTION			
41	04/05/2006	MAIL FINAL REJECTION (PTOL - 326)			
40	04/03/2006	FINAL REJECTION			
39	03/13/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
38	03/13/2006	REFERENCE CAPTURE ON IDS			
37	03/13/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	35
36	03/22/2006	DATE FORWARDED TO EXAMINER			
35	03/13/2006	RESPONSE AFTER NON-FINAL ACTION		6	27
34	03/13/2006	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
33	03/13/2006	RULE 47 / 48 CORRECTION OF INVENTORSHIP PAPERS FILED			
32	03/06/2006	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
31	03/03/2006	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
30	03/03/2005	RESTART RESPONSE OF ACTION			

29	03/03/2006	CORRESPONDENCE ADDRESS CHANGE			
28	03/06/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
27	12/07/2005	MAIL NON-FINAL REJECTION	672		-1
26	12/05/2005	NON-FINAL REJECTION			
25	10/12/2005	PRELIMINARY AMENDMENT			
24	07/28/2005	REFERENCE CAPTURE ON IDS			
23	07/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	10/01/2004	REFERENCE CAPTURE ON IDS			
21	10/01/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	03/11/2004	REFERENCE CAPTURE ON IDS			
19	03/11/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	10/01/2003	REFERENCE CAPTURE ON IDS			
17	10/01/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	08/27/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	05/22/2003	CASE DOCKETED TO EXAMINER IN GAU			
14	05/08/2003	APPLICATION DISPATCHED FROM OIPE			
13	05/07/2003	APPLICATION IS NOW COMPLETE			
10	04/29/2003	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
9	04/29/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
8	01/29/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
6	01/23/2003	CLEARED BY L&R (LARS)			
5	01/22/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
4	12/31/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
3	12/10/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	12/04/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	12/04/2002	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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NXP, B.V.
NXP INTELLECTUAL PROPERTY DEPARTMENT
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1109 MCKAY DRIVE
SAN JOSE, CA 95131

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OFFICE OF PETITIONS

In re Application of Christopher Rodd Speirs Application No. 10/310,729 Filed: December 5, 2002 Attorney Docket No. CH010027	: : : : :	ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before November 25, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed August 25, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on November 26, 2008. On December 9, 2008, the present petition was filed. A Notice of Abandonment was subsequently mailed on December 15, 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 $1,510 issue fee and $300 publication fee; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

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SEP 17 2008

In re Application of	:	
MOLLER et al.	:	
Application No. 10/310,735	:	DECISION ON PETITION
Filed: 12/04/2002	:	
Attorney Docket No. **WC-0008	:	

This is a decision on the petition under 37 CFR 1.181 (no fee), filed August 18, 2008, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue fee and publication fee on or before July 7, 2008, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed April 4, 2008. On July 30, 2008, the Office mailed a Notice of Abandonment.

Petitioner asserts that petitioner did not receive the Notice of Allowance and Fee(s) Due.

A review of the written record indicates no irregularity in the mailing of the Notice of Allowance and Fee(s) Due and in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received.

As stated in Section 711.03(c)(I)(A) of the Manual for Patent Examining Procedure:

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to

withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

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).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. The practitioner submitted redacted copies of a mail log and docket report where the Notice of Allowance and Fee(s) Due would have been entered had it been received and docketed. Additionally, the practitioner attested to the fact that a search of the records indicated that the Notice was not received at the correspondence address of record. Further, petitioner provided the Declaration of Jacqueline M. Neuman, the Docket Supervisor, who outlined the firm's procedures for handling incoming correspondence from the USPTO. Ms. Neuman also attested to the fact that a search

of the records revealed that the firm did not receive the Notice of Allowance and Fee(s) Due. Accordingly, petitioner presented the required showing under 37 CFR 1.181.

In view of the above, the holding of abandonment is withdrawn and the application is restored to pending status. No petition fee is required.

This application is being referred to the Technology Center AU 2139 technical support staff for re-mailing the Notice of Allowance and Fee(s) Due of April 4, 2008. The period for paying the issue fee and publication fee will be reset to expire three (3) months from the date the Notice is re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

Telephone inquiries regarding 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

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WOODCOCK WASHBURN LLP
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PHILADELPHIA PA 19104-2891

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In re Application of	:	
MOLLER et al.	:	
Application No. 10/310,735	:	NOTICE
Filed: 12/04/2002	:	
Attorney Docket No. **WC-0008	:	

This is in response to the communication filed August 15, 2008, notifying the Office of applicants' loss of entitlement to small entity status in accordance with 37 CFR 1.27(g)(2).

Applicants' notification that small entity status is no longer appropriate is acknowledged. Status as a small entity has been removed. The instant 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.

Telephone inquiries regarding this notice may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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NOV - 7 2003

VP
Paper No. 7

In re Application of
Krishna Srinivasan et al.
Serial Number: 10/310744
Filed: December 5, 2002
For: WELDING APPARATUS AND METHOD FOR JOINING ROOFING MATERIALS

DECISION ON PETITION

This is in response to the petition filed September 17, 2003, requesting the above-identified application be granted special status under Section 708.02 II of the MPEP and 37 CFR 1.102(d) **(fee required).**

The petition, with the accompanying statement of the applicant 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 in this case or should this case become involved in an interference, consideration of the appeal and the interference will be expedited by Patent and Trademark Office Officials concerned, contingent likewise upon diligent prosecution by applicant.

After allowance, this case will be given priority for printing. See MPEP 1309.

Accordingly, the petition is **GRANTED**.

Marian C Knode

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

Scully, Scott, Murphy & Presser
400 Garden City Plaza
Garden City, NY 11530

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BOEING MANAGEMENT COMPANY
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MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

Mail Date: 04/20/2010

Applicant	: Ralph R. Galetti	: DECISION ON REQUEST FOR
Patent Number	: 7626958	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/310,751	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/05/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2126** 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.

APPROVED: /J.Z./

Staple Here Only!

PRINTER'S TRIM LINE

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,245,396 B2

DATED : July 17, 2007

INVENTOR(S) : YOICHI SAKAMOTO

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

ON COVER PAGE AT (30) FOREIGN APPLICATION PRIORITY DATA

"2001/373269" should read --2001-373269--;
"2001/374340" should read --2001-374340--;
"2002/038132" should read --2002-038132--; and
"2002/046434" should read --2002-046434--.

COLUMN 2

Line 42, "ratio-by" should read --ratio by--.

COLUMN 7

Line 1, "the,object" should read --the object--.

COLUMN 12

Line 55, "indicated" should read --indicates--.

COLUMN 13

Line 5, "starts" should read --start--; and
Line 7, "starts" should read --start--.

COLUMN 23

Line 57, "are" should read --is--.

MAILING ADDRESS OF SENDER:

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
(212) 218-2100 - Telephone
(212) 218-2200 - Facsimile

PATENT NO. US 7,245,396 B2

No. of add'l. copies @ 30¢ per page

Form PTO 1050 (Rev. 3-82)

2349019v1

APPROVED: /J.Z./

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PRINTER'S TRIM LINE

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,245,396 B2

DATED : July 17, 2007

INVENTOR(S) : YOICHI SAKAMOTO

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

COLUMN 24

Line 34, "sift" should read --shift--.

COLUMN 34

Line 16, "includes" should read --include--.

COLUMN 36

Line 29, "6014 in" should read --6014. In--.

COLUMN 38

Line 17, "checked" should read --checked in--.

COLUMN 43

Line 34, "aftertime." should read --afterwards.--.

COLUMN 44

Line 30, "Instep" should read --In step--.

COLUMN 51

Line 37, "gone" should read --gone the--.

MAILING ADDRESS OF SENDER:

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
(212) 218-2100 - Telephone
(212) 218-2200 - Facsimile

PATENT NO. US 7,245,396 B2

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2349019v1

APPROVED: /J.Z./

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PRINTER'S TRIM LINE

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,245,396 B2

DATED : July 17, 2007

INVENTOR(S) : YOICHI SAKAMOTO

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

COLUMN 53

Line 18, "decoding" should read --coding--.

MAILING ADDRESS OF SENDER:

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
(212) 218-2100 - Telephone
(212) 218-2200 - Facsimile

PATENT NO. US 7,245,396 B2

No. of add'l. copies
@ 30¢ per page

Form PTO 1050 (Rev. 3-82)

2349019v1

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080825

DATE : August 21, 2008

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction on Patent No.: 7,245,396

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

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

Thank You For Your Assistance **Certificates of Correction Branch**

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

The request is approved. See attached and annotated IFW documents for details.

/Twyler L. Haskins/
Supervisory Patent Examiner, Art Unit 2625

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

MCKENNA LONG & ALDRIDGE LLP
Song K. Jung
1900 K Street, N.W.
Washington, DC 20006

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MAY 06 2003

OFFICE OF PETITIONS

In re Application of	:	
Jung et al.	:	
Application No. 10/310,847	:	DECISION
Filed: December 6, 2002	:	ON PETITION
Attorney Docket No.:	:	
8733.724.00-US	:	

This is a Decision on the Response to Notice of Omitted Item(s) in a Nonprovisional Application, filed March 14, 2003, requesting that the above-identified application be accorded a filing date of December 6, 2002, including Figures 4, 5, 6A, 6B and 7.

The petition is **dismissed**.

The application was deposited on December 6, 2002. However, on January 17, 2003, Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application (hereinafter "Notice"), informing Petitioner that Figures 6a, 6b and 7 described in the specification appeared to have been omitted. It is noted that the drawings filed with the application on December 6, 2002, included Figures 1, 2, 3, 4A, 4B, and 5.

In response, Petitioner files the instant petition and drawing Figures 1, 2, 3, 4, 5, 6A, 6B and 7. Petitioner avers that support is provided in the specification for all eight Figures submitted with the instant petition.

Petitioner's argument appears to indicate that Figures 1, 2, 3, 4, 5, 6A, 6B and 7 contain no new matter. Petitioner is advised that a petition is not necessary in this instance to add the drawing figure(s). Applicants may add figure(s) described in the specification on the basis that the drawings are not new matter. 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).

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 6, 2002, using the four (4) sheets of drawings present on filing.

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

UNITED STATES 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

Larry S. Nixon, Esq.
NIXON & VANDERHYE P.C.
8th Floor
1100 North Glebe Rd.
Arlington, VA 22201-4714

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APR 0 7 2004

OFFICE OF PETITIONS

In re Application of	:	
Kondo	:	REQUEST FOR INFORMATION
Application No. 10/310,852	:	
Filed: December 6, 2002	:	
Atty. Dkt. No.: 2018-650	:	

This letter is in response to the "PETITION TO THE COMMISSIONER UNDER 37 C.F.R. I1.181; 1.182 AND/OR 1.183", filed July 15, 2003.

Petitioner requests correction of a previously recorded assignment recordation coversheet. In furtherance of this request, petitioner is requested to submit in accordance with the procedures outlined at MPEP 323 a document titled "CORRECTIVE DOCUMENT." The Corrective Document must include the original assignment document with the corrections made therein. The corrections must be initialed and dated by the party conveying the interest. The Corrective Document must also include a new Recordation Form Cover Sheet (form PTO-1619) (See MPEP §302.07).

The new recordation form cover sheet must identify the submission as a "corrective document" submission and indicate the reel and frame number where the incorrectly recorded assignment document appears. The person signing the new recordation form cover sheet must state that the information provided on the new cover sheet is true and correct and that any copy submitted is a true copy of the original document. The original cover sheet should be submitted with the corrective document. The corrective document will be recorded and given a new reel and frame number and recording date. The recording fee set forth in 37 CFR 1.21(h) is required for each patent application and patent against which the corrective document is being recorded. See MPEP § 302.06.

Corrections may be made on the original assignment document, for example, by lining out an incorrect patent or application number in a merger or change of name (see MPEP § 314).

The above requested information should be submitted within within **TWO (2) MONTH** from mail date of this letter. Extensions of time under 37 CFR 1.136(a) are permitted.

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

OIPE
DEC 2 3 2003
PATENT & TRADEMARK OFFICE

PATENT

SN-US02F0547-R

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	ATTN: Box Reissue
Kanji KIRIMOTO et al.	:	Patent Art Unit: 3683
Serial No.: 10/310,882	:	Examiner: Benjamin A. Pezzlo
Filed: December 6, 2002	:	Reissue of Patent No. 6,334,514 Issued: January 1, 2002
For: BICYCLE DISC BRAKE	:	

SURRENDER OF ORIGINAL PATENT GRANT

Assistant Commissioner of Patents
Box Reissue
Washington, D.C. 20231

Sir:

In response to the September 26, 2003 Office Action, Applicants surrender the attached original patent grant for U.S. Patent No. 6,334,514. Applicants request correction of the original patent grant for U.S. Patent No. 6,334,514 in accordance with this reissue proceeding.

Respectfully submitted,

Patrick A. Hilsmier
Reg. No. 46,034

Shinjyu Global IP Counselors, LLP
1233 Twentieth Street, NW, Suite 700
Washington, D.C. 20036
(202) 293-0444
Dated: 12-23-03

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GROUP

G:\12-DEC03-MSM\SN-US02F0547-R Surrender of patent.doc

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PATENT

SN-US02F0547-R

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Kanji KIRIMOTO et al.

Serial No.: 10/310,882

Filed: December 6, 2002

For: BICYCLE DISC BRAKE

OIPE JC35 DEC 2 3 2003 PATENT & TRADEMARK OFFICE

ATTN: **BOX REISSUE**

Patent Art Unit: 3683

Examiner: Benjamin A. Pezzlo

Reissue of U.S. Patent No. 6,334,514
Issued: January 1, 2002

THE ASSISTANT COMMISSIONER FOR PATENTS

Sir:

Transmitted herewith are an Amendment, a Supplemental Reissue Declaration and Surrender of Original Patent Grant in the above-identified application:

[X] No additional fee is believed to be required.

The fee has been calculated as shown below:

	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NO. PREVIOUSLY PAID FOR		PRESENT EXTRA	SMALL ENTITY RATE	SMALL ENTITY ADDIT. FEE	OTHER THAN A SMALL ENTITY RATE	OTHER THAN A SMALL ENTITY ADDIT. FEE
TOTAL	8	- 20	=	0	x09 =	$	x18 =	$
INDEP	1	- 3	=	0	x43 =	$	x86 =	$
[ ] 1ST PRESENTATION OF MULT. DEP. CLAIM					+145 =	$	+290 =	$
					TOTAL	$	TOTAL	$

[X] The Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 50-1836. A duplicate copy of this sheet is attached.

[X] Any additional excess claim fees under 37 CFR 1.16.

[X] Any additional patent application processing fees under 37 CFR 1.17.

Dated: 12-23-03

Patrick A. Hilsmier
Reg. No. 46,034

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GROUP 3600

SHINJYU GLOBAL IP COUNSELORS, LLP
1233 Twentieth Street, NW, Suite 700
Washington, DC 20036
(202) 293-0444

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DEC 2 3 2003
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PATENT

N-US02F0547-R

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	
Kanji KIRIMOTO et al.	:	**ATTN: BOX REISSUE**
Serial No.: 10/310,882	:	
	:	Reissue of U.S. Patent No. 6,334,514
Filed: December 6, 2002	:	Issued: January 1, 2002
For: BICYLCE DISC BRAKE	:	

SUPPLEMENTAL REISSUE DECLARATION

In support of the Amendment being filed herewith, attached is a Supplemental Reissue Declaration for the above-identified REISSUE application.

Respectfully submitted,

Patrick A. Hilsmier
Reg. No. 46,034

SHINJYU GLOBAL IP COUNSELORS, LLP
1233 Twentieth Street, NW, Suite 700
Washington, D.C. 20036
(202)-293-0444
Dated: 12-23-03

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GROUP 3600

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

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OFFICE OF PETITIONS

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

In re Application of	:	
Shinji Fujita et al.	:	
Application No. 10/310,900	:	ON PETITION
Filed: December 6, 2002	:	
Attorney's Docket No. 038921/51826US	:	

This is a decision on the petition filed September 14, 2006 to correct an error in the spelling of the first inventor's name which is being treated under 37 CFR 1.182 .

Petitioners request that the first inventor's last name be corrected from "Sinji" to "Shinji".

Although no declaration by the inventor explaining that the error was without deceptive intent has been provided, it appears that based on the nature of the error that perhaps a harmless typographical error has been committed. In view of the Application Data Sheet (ADS) and how the inventor signed his name from the inception on the original oath/declaration, this petition is **GRANTED**.

A petition under 37 CFR 1.182 carries with it a fee in the amount of $400.00 pursuant to 37 CFR 1.17(f). Therefore, petition's deposit account no. 05-1323 has been charged in the amount of $400.00

This matter is being referred to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

Mail Date: 04/21/2010

Applicant	: Solgun Drevik	: DECISION ON REQUEST FOR
Patent Number	: 7601144	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/310,907	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/06/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **926** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ANISSIMOFF & ASSOCIATES
RICHMOND NORTH OFFICE CENTRE
SUITE 201
235 NORTH CENTRE RD.
LONDON ON N5X 4E7 CA CANADA

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OFFICE OF PETITIONS

In re Patent No. 6,854,239 :

Issue Date: February 15, 2005 :

Application No. 10/310,909 : ON PETITION

Filed: December 6, 2002 :

Attorney Docket No. **942097**

This is a decision on the petition filed March 21, 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 **dismissed**.

Relative to the correction to the assignee data reflected on the subject patent, a completed "Certificate of Correction" expressly specifying the desired correction did not accompany the request. Petitioner should complete the form PTO/SB/44, which is enclosed, and return it with any renewed request filed.

A Certificate of Correction for the correction of the inventor's name was found with the instant request, and should not be filed again.

The renewed request may directed to the following:

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

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

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

Inquiries regarding this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/44

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ROSETTA-GENOMICS
c/o PSWS
700 W. 47TH STREET
SUITE 1000
KANSAS CITY MO 64112

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OFFICE OF PETITIONS

In re Application of	:
Bentwich	: DECISION ON APPLICATION
Application No. 10/310,914	: FOR PATENT TERM ADJUSTMENT
Filed: December 6, 2002	:
Atty. Dkt. No.: 050992.0200.CPUS01	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b)" filed October 17, 2006.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED TO THE INTENT INDICATED HEREIN**.

Applicant requests that the Determination of Patent Term Adjustment be corrected from zero days, as indicated on the Determination of Patent Term Adjustment mailed October 12, 2006, to an adjustment of 588 days.

The correct adjustment at the time of allowance is 556 days.

An adjustment of 621 days in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1) can be attributed to the Office in connection with the restriction requirement mailed October 19, 2005.

The adjustment of 621 is properly reduced a total of 65 days.

The adjustment is reduced 33 days, as undisputed by applicant, in accordance with 37 CFR 1.704(b) in connection with the reply submitted February 21, 2006 in response to the restriction requirement mailed October 19, 2005.

The adjustment is further reduced 32 days in accordance with 37 CFR 1.704(c)(8) in connection with the supplemental response submitted September 12, 2006. The reduction began August 12, 2006, the day after the date that a reply to the non-final Office action mailed June 5, 2006 was submitted, and ended September 12, 2006, the date the Information Disclosure Statement was submitted.

A review of the record reveals that the Office errantly entered a reduction of 668 days in connection with the reply filed in response to the Notice mailed April 21, 2005.

Accordingly, at the time of allowance, the application is entitled to an adjustment of 556 days.

Receipt is hereby acknowledged of the required PTA application fee of $200.00.

Applicants are further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The application file is being forwarded to the Publications Division for issuance of a patent.

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

Kery A. Fries

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

cc: Adjusted Pate Calculation

PALM INTRANET

Day : Tuesday
Date: 5/1/2007
Time: 09:58:52

PTA Calculations for Application: 10/310914			
Application Filing Date:	12/06/2002	PTO Delay (PTO):	621
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	701
Post-Issue Petitions:	0	Total PTA (days):	556
PTO Delay Adjustment:	636		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
97	05/01/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	668		
96	05/01/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		32	
67	10/12/2006	MAIL NOTICE OF ALLOWANCE			
66	10/12/2006	MAIL EXAMINER'S AMENDMENT			
65	10/10/2006	ISSUE REVISION COMPLETED			
64	10/10/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
63	10/10/2006	CASE DOCKETED TO EXAMINER IN GAU			
62	06/23/2005	PRELIMINARY AMENDMENT			
61	11/14/2003	PRELIMINARY AMENDMENT			
60	10/06/2006	EXAMINER'S AMENDMENT COMMUNICATION			
59	10/06/2006	NOTICE OF ALLOWABILITY			
58	08/11/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
57	09/12/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
56	09/12/2006	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
48	09/09/2006	DATE FORWARDED TO EXAMINER			
47	09/06/2006	SUPPLEMENTAL RESPONSE			
46	08/11/2006	REFERENCE CAPTURE ON IDS			
45	08/11/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
44	08/11/2006	NEW OR ADDITIONAL DRAWING FILED			
43	08/14/2006	DATE FORWARDED TO EXAMINER			
42	08/11/2006	RESPONSE AFTER NON-FINAL ACTION			
41	06/23/2006	CORRESPONDENCE ADDRESS CHANGE			
40	06/23/2006	CORRESPONDENCE ADDRESS CHANGE			

39	06/23/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
38	06/05/2006	MAIL NON-FINAL REJECTION			
37	05/31/2006	NON-FINAL REJECTION			
36	05/09/2006	CASE DOCKETED TO EXAMINER IN GAU			
35	03/10/2006	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
34	02/21/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
33	03/01/2006	DATE FORWARDED TO EXAMINER			
32	02/21/2006	RESPONSE TO ELECTION / RESTRICTION FILED		33	25
31	02/21/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	01/07/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
29	12/02/2005	FILE MARKED FOUND			
28	11/15/2005	CORRESPONDENCE ADDRESS CHANGE			
27	11/15/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
26	11/10/2005	FILE MARKED LOST			
25	10/19/2005	MAIL RESTRICTION REQUIREMENT	621		-1
24	10/17/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
23	10/12/2005	CASE DOCKETED TO EXAMINER IN GAU			
22	09/28/2005	APPLICATION DISPATCHED FROM OIPE			
21	09/28/2005	APPLICATION IS NOW COMPLETE			
20	06/21/2005	ADDITIONAL APPLICATION FILING FEES		668	12
19	06/21/2005	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
18	06/21/2005	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
17	07/07/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
15	11/14/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
14	11/14/2003	ADDITIONAL APPLICATION FILING FEES			
13	05/23/2003	PRE-EXAM OFFICE ACTION WITHDRAWN			
12	05/23/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
10	08/29/2003	CORRESPONDENCE ADDRESS CHANGE			

7	12/06/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
5	04/19/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
4	04/19/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	01/17/2003	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
2	12/06/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	12/06/2002	INITIAL EXAM TEAM NN			

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Paper No. 5
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MAY 23 2003
OFFICE OF PETITIONS

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

In re Application of
Binn Kim, Jong-UK Bae and Hae Yeol Kim
Application No.10/310964
Filed: December 6, 2002
Attorney Docket No. 053785-5061
Title of Invention: METHOD OF FABRICATING POLYSILICON THIN FILM TRANSISTOR

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed May 1, 2003.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor can not be reached or located and diligent effort has been used to locate the inventor. Specifically, the petition indicates the application papers were sent to the last known address of Jong-UK Bae. The envelope was returned as being undeliverable. Former co-workers of non-signing inventor were consulted but all indicated they were unaware of a forwarding address. Phone calls were also made to last known work and home numbers which did not yield any forwarding information. As such, rule 47 applicant has demonstrated diligent effort was used to locate the non-signing inventor.

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

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

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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WASHINGTON, DC 20004

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JUN 27 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Seo et al.
Application No. 10/310,965
Filed: December 6, 2002
Attorney Docket No. 053785-5060

This decision concerns the May 27, 2003 "Petition for Filing an Application under 37 CFR 1.47(a)."

The petition is **DISMISSED.**

Three inventors are named in this application which, upon filing, did not include an oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on March 24, 2003, giving Applicants an extendable 2-month period to submit, *inter alia*,[1] a properly signed oath/declaration. The instant petition then followed, asserting that 1 of the 3 joint inventors, Jong-Uk Bae ("Bae"), cannot be found or reached, and requesting that LG Philips LCD Co. Ltd. ("Philips"), apparently Bae's former employer, be allowed to file this application on behalf of, and as agent for, Bae. The petition is accompanied by a declaration signed by the 2 available inventors ("5/27/03 Declaration").

In the event that all of the named inventors either cannot be found/reached after diligent effort, or, refuse to sign the application declaration, the assignee of the entire interest in this application may petition and request to make the application on behalf of, and as agent for, the inventors. Here, 2 of the 3 inventors signed the declaration. Therefore, under 37 CFR 1.47(a), the 2 signing inventors rather than Philips[2] may request to file the application on behalf of Bae, upon showing that Bae cannot be located/reached after diligent effort, or, refuses to sign the declaration.

Even if the petition properly stated the request, the available inventors may file this application on behalf of themselves as well as Bae provided that the petition includes a statement of facts, signed by a person with first hand knowledge of the facts recited therein, establishing that a **diligent effort** had been made to locate Bae, and that notwithstanding such an effort, Bae could not be found.[3]

---

1 Also missing were: the application basic filing fee and the extra claims fee.

2 Assuming Philips is the assignee of the entire interest in the claimed invention.

3 37 CFR 1.47(a); MPEP section 409.03(d) INVENTOR CANNOT BE REACHED (Rev. 1, Feb. 2003).

The instant petition, in conjunction with the accompanying exhibits, asserts that Bae could not be located after a diligent search. The Office disagrees:

(1) The petition has not supplied any evidence of the alleged Internet search for Bae;[4]

(2) The petition indicates that Bae moved to the United States. Through www.Lexis.com (Person Locator), the Office was able to find a person with the name "Jong Uk Bae" associated with a US (California) address.[5] The Office did not check the Korean database.

In conclusion, it appears that a reasonably diligent effort had not been made to locate Bae before it was concluded that he could not be reached or found. The petition is thus dismissed.

Options

To prevent abandonment of this application, **either** of the following must be filed within **TWO MONTHS** of the mailing date of this decision:[6]

(1) an oath/declaration, properly signed by all inventors, including Bae;[7]

OR, (2) a renewed petition under 37 CFR 1.47(a) (no fee) that includes appropriate statement(s) of facts establishing that:
-a diligent effort had been made, in vain, to locate Bae;[8] or,
-Bae was located, but refused to sign the declaration after a *bona fide* attempt made to present to him, for review and signature, a copy of the entire application (specification including claims; drawings).[9]

---

[4] E.g., a printout of the search results.

[5] Copy of printout attached.

[6] Unless a proper extension of time under 37 CFR 1.136(a) is obtained. 37 CFR 1.53(f).

[7] A declaration listing the invention and all of the inventors but signed only by Bae may be submitted to supplement the 5/27/03 Declaration.

[8] MPEP section 409.03(d) (Rev. 1, Feb. 2003).

[9] MPEP section 409.03(d) (Rev. 1, Feb. 2003) REFUSAL TO JOIN (A refusal by an inventor to sign an oath/declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join in the application unless it is clear that the inventor understands exactly what he is being asked to sign and refuses to accept the application papers.); also citing In re Gray, 115 U.S.P.Q. 80 (Comm'r Pat. 1956) (It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath/declaration is directed.).

The renewed §1.47(a) petition should be addressed as follows:

by mail/by hand:	Commissioner for Patents, USPTO Attn: 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

Finally, the Office acknowledges receipt with the petition of: the $130 petition fee; the $130 surcharge for failure to submit an acceptable oath/declaration upon filing of the application; the $750 basic filing fee; and the $144 extra claims fee.[10]

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

RC Tang
Petitions Attorney
Office of Petitions

Attachment: Printout, www.Lexis.com (Person Locator)

---

[10] An extension of time was not required for submitting the missing items, in that, the 2-month reply period ended on 5/24/03, a Saturday, and the following Monday, 5/26/03, was Memorial Day, a Federal holiday.

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MORGAN LEWIS & BOCKIUS LLP
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WASHINGTON, DC 20004

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AUG 25 2003

OFFICE OF PETITIONS

In re Application of :
Seo et al. :
Application No. 10/310,965 :
Filed: December 6, 2002 :
Attorney Docket No. 053785-5060 :

ON PETITION

This decision concerns the August 6, 2003 renewed petition under 37 CFR 1.47(a).

The petition is **GRANTED.**

The previous petition under 37 CFR 1.47(a), filed on May 27, 2003, asserted that 1 of the 3 named inventors, Jong-Uk Bae, could not be reached or located although he was thought to have immigrated to the United States, residing in California. That petition was dismissed on June 27, 2003 for lacking sufficient showing that a diligent effort had been made, in vain, to locate/reach Jong-Uk Bae.

The instant renewed petition sets forth that:

-Internet searches for Jong-Uk Bae conducted in Korea did not find any one by that name;
-Correspondence sent to Jong-Uk Bae at his last known address in Korea was returned as undeliverable, apparently because he did not leave any forwarding address;
-Through Internet searches in the U.S. database, counsel located a "Jong-Uk Bae" in California who, upon a telephone inquiry from counsel, was determined to not be the inventor Jong-Uk Bae.

In view of the above, the Office concludes that a reasonably diligent effort had been made, in vain, to locate the inventor Jong-Uk Bae. The renewed petition is thus granted.

The "Combined Declaration for Patent Application and Power of Attorney" executed by the 2 available inventors and submitted with the previous §1.47(a) petition on May 27, 2003 is hereby accepted. The application is now complete.

As provided in 37 CFR 1.47(c), the Office will forward notice of the filing of this application to the inventor Jong-Uk Bae at his last known address provided in the renewed petition:

1422-2002 Mokdung Apt.
Sinjeong6-dong, Yangcheon-gu
Seoul, 158-076
Republic of Korea

Notice of the filing of this application will also be published in the *Official Gazette*.

The application 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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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Jong-Uk Bae
1422-2002 Mokdung Apt.
Sinjeong6-dong, Yangcheon-gu
Seoul, 158-076
Republic of Korea

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AUG 25 2003

OFFICE OF PETITIONS

In re Application of
Seo et al.
Application No. 10/310,965
Filed: December 6, 2002
Attorney Docket No. 053785-5060

LETTER

Dear Mr. Bae,

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 for the United States Patent and Trademark Office [USPTO]). 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 pursuant to 37 CFR 1.19), or make your position of record in the application. Alternatively, you may do any of the aforementioned through an attorney or agent registered to practice before the USPTO and 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.

Requests for information regarding this application should be directed to the File Information Unit at (703) 308-2733. For information on how to order a copy of the application or a specific paper in the application, contact the Certification Division at (703) 308-9726 or 1-(800) 972-6382 (outside the Washington DC area). Telephone inquiries regarding this letter should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions
Office of the Commissioner
for Patents

cc: Donald L. Monin, Jr., Esq.
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, N.W.
Washington, DC 20004

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JUN 2 3 2003

OFFICE OF PETITIONS

In re Application of
Seo et al.
Application No. 10/310,966
Filed: December 6, 2002
Attorney Docket No. 053785-5063

ON PETITION

This decision concerns the May 21, 2003 "Petition for Filing an Application under 37 CFR 1.47(a)."

The petition is **DISMISSED.**

Three inventors are named in this application which, upon filing, did not include an oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on March 19, 2003, giving Applicants an extendable 2-month period to submit, *inter alia*,[1] a properly signed oath/declaration. The instant petition then followed, asserting that 1 of the 3 joint inventors, Jong-Uk Bae ("Bae"), cannot be found or reached, and requesting that LG Philips LCD Co. Ltd. ("Philips"), apparently Bae's former employer, be allowed to file this application on behalf of, and as agent for, Bae. The petition is accompanied by a declaration signed by the 2 available inventors ("5/21/03 Declaration").

In the event that all of the named inventors either cannot be found/reached after diligent effort, or, refuse to sign the application declaration, the assignee of the entire interest in this application may petition and request to make the application on behalf of, and as agent for, the inventors. Here, 2 of the 3 inventors signed the declaration. Therefore, under 37 CFR 1.47(a), the 2 signing inventors rather than Philips[2] may request to file the application on behalf of Bae, upon showing that Bae cannot be located/reached after diligent effort, or, refuses to sign the declaration.

Even if the petition properly stated the request, the available inventors may file this application on behalf of themselves as well as Bae provided that the petition includes a statement of facts, signed by a person with first hand knowledge of the facts recited therein, establishing that a **diligent effort** had been made to locate Bae, and that notwithstanding such an effort, Bae could not be found.[3]

---

[1] Also missing were: the application basic filing fee and the extra claims fee.

[2] Assuming Philips is the assignee of the entire interest in the claimed invention.

[3] 37 CFR 1.47(a); MPEP section 409.03(d) INVENTOR CANNOT BE REACHED (Rev. 1, Feb. 2003).

The instant petition, in conjunction with the accompanying exhibits, asserts that Bae could not be located after a diligent search. The Office disagrees:

(1) The petition has not supplied any evidence of the alleged Internet search for Bae;[4]

(2) The petition indicates that Bae moved to the United States. Through www.Lexis.com (Person Locator), the Office was able to find a person with the name "Jong Uk Bae" associated with a US (California) address.[5] The Office did not check the Korean database.

In conclusion, it appears that a reasonably diligent effort had not been made to locate Bae before it was concluded that he could not be reached or found. The petition is thus dismissed.

Options

To prevent abandonment of this application, **either** of the following must be filed within **TWO MONTHS** of the mailing date of this decision:[6]

(1) an oath/declaration, properly signed by all inventors, including Bae;[7]

OR, (2) a renewed petition under 37 CFR 1.47(a) (no fee) that includes appropriate statement(s) of facts establishing that:
-a diligent effort had been made, in vain, to locate Bae;[8] or,
-Bae was located, but refused to sign the declaration after a *bona fide* attempt made to present to him, for review and signature, a copy of the entire application (specification including claims; drawings).[9]

---

[4] E.g., a printout of the search results.

[5] Copy of printout attached.

[6] Unless a proper extension of time under 37 CFR 1.136(a) is obtained. 37 CFR 1.53(f).

[7] A declaration listing the invention and all of the inventors but signed only by Bae may be submitted to supplement the 5/21/03 Declaration.

[8] MPEP section 409.03(d) (Rev. 1, Feb. 2003).

[9] MPEP section 409.03(d) (Rev. 1, Feb. 2003) REFUSAL TO JOIN (A refusal by an inventor to sign an oath/declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join in the application unless it is clear that the inventor understands exactly what he is being asked to sign and refuses to accept the application papers.); also citing In re Gray, 115 U.S.P.Q. 80 (Comm'r Pat. 1956) (It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath/declaration is directed.).

The renewed §1.47(a) petition should be addressed as follows:

by mail/by hand:	Commissioner for Patents, USPTO Attn: 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

Finally, the Office acknowledges receipt with the petition of: the $130 petition fee; the $130 surcharge for failure to submit an acceptable oath/declaration upon filing of the application; the $750 basic filing fee; the $270 extra claims fee; and the $110 for obtaining a 1-month extension of time for filing the petition.

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

RC Tang
Petitions Attorney
Office of Petitions

Attachment: Printout, www.lexis.com (Person Locator)

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WASHINGTON, DC 20004

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AUG 25 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Seo et al.
Application No. 10/310,966
Filed: December 6, 2002
Attorney Docket No. 053785-5063

This decision concerns the August 6, 2003 renewed petition under 37 CFR 1.47(a).

The petition is **GRANTED.**

The previous petition under 37 CFR 1.47(a), filed on May 21, 2003, asserted that 1 of the 3 named inventors, Jong-Uk Bae, could not be reached or located although he was thought to have immigrated to the United States, residing in California. That petition was dismissed on June 23, 2003 for lacking sufficient showing that a diligent effort had been made, in vain, to locate/reach Jong-Uk Bae.

The instant renewed petition sets forth that:

-Internet searches for Jong-Uk Bae conducted in Korea did not find any one by that name;
-Correspondence sent to Jong-Uk Bae at his last known address in Korea was returned as undeliverable, apparently because he did not leave any forwarding address;
-Through Internet searches in the U.S. database, counsel located a "Jong-Uk Bae" in California who, upon a telephone inquiry from counsel, was determined to not be the inventor Jong-Uk Bae.

In view of the above, the Office concludes that a reasonably diligent effort had been made, in vain, to locate the inventor Jong-Uk Bae. The renewed petition is thus granted.

The "Combined Declaration for Patent Application and Power of Attorney" executed by the 2 available inventors and submitted with the previous §1.47(a) petition on May 21, 2003 is hereby accepted. The application is now complete.

As provided in 37 CFR 1.47(c), the Office will forward notice of the filing of this application to the inventor Jong-Uk Bae at his last known address provided in the renewed petition:

1422-2002 Mokdung Apt.
Sinjeong6-dong, Yangcheon-gu
Seoul, 158-076
Republic of Korea

Notice of the filing of this application will also be published in the *Official Gazette*.

BEST AVAILABLE COPY

The application 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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APR 04 2005

TECHNOLOGY CENTER 3600

John J. Dresch, Esq.
McGinn & Gibb, PLLC
8321 Old Courthouse Road, Suite 200
Vienna, VA 22182-3817

Application: Oomi ARISAKA	:DECISION ON PETITION
Serial No.: 10/310,973	:UNDER 37 CFR 1.181
Filed: December 6, 2002	:PETITION TO WITHDRAW
For: CLIP	:FINALITY

This is a decision on the Petition filed January 3, 2005, a Request to Withdraw the Finality of the Office Action dated November 1, 2004 as being premature.

The Applicant states that the Office action applied a newly cited reference in the rejection of the claims, necessitated by amendment, but that the amendment merely corrected idiomatic errors in the language of the claim and thus the rejection was not necessitated by the amendments.

Review of the nature of the amendment proves this statement to be correct, the changes in the amendment do not change the claims in a substantive manner. Therefore, since the amendment did not necessitate the finality of the Office Action of November 1, 2004, the FINALITY of the action will be withdrawn. The amendment submitted with this petition, which will now be considered as responding to a non-final action, will be entered.

SUMMARY: The Petition is **GRANTED**.

This decision will be forwarded to the Supervisory Legal Instruments Examiner to: formally change the designation of the Office action of November 1, 2004 from Final to Non-final, enter the amendment submitted with this petition, and forward to the examiner for an action on the merits.

Donald Hajec
Director, TC 3600
(703) 306-1480

js/snm: 3/25/05

SM

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NIXON PEABODY, LLP
401 9TH STREET, NW
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WASHINGTON, DC 20004-2128

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OFFICE OF PETITIONS

In re Application of
Caesar Passannante and
Stephen Smith
Application No. 10/310,974
Filed: December 6, 2002
Attorney Docket No. 741283-29
Title: ILLUMINATED ADVERTISING
TRASH RECEPTACLE

DECISION REFUSING STATUS
UNDER 37 CFR § 1.47(a)

This is a decision on the "PETITION UNDER 37 CFR 1.47(a)," filed October 23, 2003.

The petition is **DISMISSED**.

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

The above-identified application was filed on December 6, 2002, without an executed oath or declaration, missing the statutory basic filing fee and with additional claim fees due. By application data sheet, Caesar Passannante and Stephen Smith were identified as joint inventors. Accordingly, on March 19, 2003, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring submission of an executed oath or declaration, payment of the filing fees and payment of the surcharge for late filing under § 1.16(e).

In response, rule 47 applicants filed the instant petition, along with payment of the petition fee, the basic filing fee, the additional claim fees and the late surcharge. This response was made timely by an accompanying petition (and fee) for extension of time within the fifth month. On petition, applicants assert that status under § 1.47(a) is proper because inventor Smith has, by his conduct, refused to join in the application. In support thereof, applicants submit the declaration of facts of patent attorney Frank J. Derosa.

A grantable petition under 37 C.F.R. § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or found, after diligent effort, or refuses to sign the oath or declaration

after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirement (2).

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. By declaration of patent attorney Derosa, petitioner has shown that the application papers were presented to inventor Smith by Federal Express delivery, but inventor Smith failed to respond to the letters requesting that he sign and return the declaration. The petition includes payment of the petition fee and a statement of the last known address of non-signing inventor Smith.

However, the declaration submitted is unacceptable as it does not identify inventor Smith as an inventor[1]. Applicants may submit multiple declarations, executed separately by each inventor; however, all declarations must identify the entire inventive entity.

As set forth in MPEP 409.03:

> In addition to other requirements of law (35 U.S.C. 111(a) and 115), an application deposited in the U.S. Patent and Trademark Office pursuant to 37 CFR 1.47(a) must meet the following requirements:
>
> > (A) All the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.175 (see MPEP § 602, § 605.01, and § 1414) and (2) make oath or declaration on behalf of the non-signing joint inventor as required by 37 CFR 1.64. An oath or declaration signed by all the available joint inventors with the signature block of the non-signing inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the non-signing inventor(s), unless otherwise indicated.

As the declaration does not identify inventor Smith, it can not be concluded that this declaration is properly executed by inventor Passannante on behalf of himself and on behalf of non-signing inventor Smith.

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 Smith, including the information required for inventor Smith, should be supplied. (Rule 47 applicants are reminded that an amended oath or declaration is unacceptable).

---

[1] The application includes an application data sheet in accordance with § 1.76, identifying both inventors by name, mailing address and/or residence and citizenship.

The petition, submitted by a registered practitioner, is signed with an address different from the address of record. However, the petition does not include a request for a change of correspondence address. A courtesy copy of this decision is being mailed to the New York Office of Brown Raysman. All future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

cc: BROWN RAYSMAN MILLSTEIN FELDER
& STEINER LLP
900 THIRD AVENUE
NEW YORK, NY 10022

UNITED STATES PATENT AND TRADEMARK OFFICE

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& STEINER LLP
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OFFICE OF PETITIONS

In re Application of Caesar Passannante and Stephen Smith Application No. 10/310,974 Filed: December 6, 2002 Attorney Docket No. 741283-29 Title: ILLUMINATED ADVERTISING TRASH RECEPTACLE	PETITION UNDER 37 CFR 1.47 DISMISSED AS MOOT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR 1.47(a)," filed January 26, 2004.

The petition is **DISMISSED AS MOOT**.

The above-identified application was filed on December 6, 2002, without an executed oath or declaration, missing the statutory basic filing fee and with additional claim fees due. By application data sheet, Caesar Passannante and Stephen Smith were identified as joint inventors. In response to a "Notice to File Missing Parts of Nonprovisional Application," mailed March 19, 2003, requiring inter alia submission of an executed oath or declaration, applicant filed the initial petition under 1.47.

However, by decision mailed November 21, 2003, the petition was dismissed for failure to submit an acceptable declaration. The declaration submitted did not identify non-signing inventor Stephen Smith as a joint inventor.

On instant renewed petition, petitioner responds that

> While the Data Sheet filed with the application name Messrs. Passannante and Smith as inventors, the original Declaration signed by Mr. Passannante and filed on October 23, 2003 only named Mr. Passannante as an inventor.

Furthermore, on petition, attorney DeRosa states that inventor Passannante has informed him that he is the sole inventor and that Mr. Smith is not an inventor. Likewise, Mr. Smith has informed him that he is not an inventor in the above-identified patent application.

MPEP 601 provides that:

> If there is a discrepancy between the information submitted in an application data sheet and the information submitted elsewhere in the application, the application data sheet will control except for the naming of the inventors and the citizenship of the inventors. See MPEP § 601.05.

37 CFR 1.48(f) further provides that:

> If the correct inventor or inventors are not named on filing a nonprovisional application under § 1.53(b) without an executed oath or declaration under § 1.63 by any of the inventors, the first submission of an executed oath or declaration under § 1.63 by any of the inventors during the pendency of the application will act to correct the earlier identification of inventorship. ...

In view thereof, the declaration filed January 28, 2004 is accepted pursuant to 37 CFR 1.48(f) to correct the earlier identification of the inventors.

Given that inventor Passannante is now considered the sole inventor and he has executed the declaration, 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).

Receipt of the power of attorney and change of address of address to customer number 29858 is acknowledged and made of record.

The application file is being returned to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries related to this decision may 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
www.uspto.gov

FLESHNER & KIM, LLP
P.O. BOX 221200
CHANTILLY VA 20153

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OFFICE OF PETITIONS

In re Application of	:	
Kevin Hoffman et, al	:	
Application No. 10/310,979	:	DECISION ON PETITION
Filed: December 6, 2002	:	TO WITHDRAW
Attorney Docket No. EFRG-004	:	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 October 4, 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 to withdraw all of the attorneys/agents associated with customer number 34610 cannot be approved because, the attorney/agents of record were not appointed by customer number.

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

Telephone inquiries concerning this decision should be directed to Charles Smoot 571-272-3299

David Bucci
Petitions Examiner
Office of Petition

OIPE IAP97
NOV 15 2006
PATENT & TRADEMARK OFFICE

IFW

Docket No.: EFRG-0004

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of
Kevin HOFFMAN, Jim ANZALONE,
and Chris CORMACK

Confirmation No.: 7069

Group Art Unit: 3629

Serial No.: 10/310,979

Examiner: Unknown

Filed: 12/6/2002

Customer No.: 34610

For: INFORMATION AND TIME MANAGING SYSTEM AND METHOD

RESPONSE TO DECISION ON PETITION TO WITHDRAW FROM RECORD

Attention: David Bucci, Petitions Examiner
Office of Petitions
U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, Virginia 22314
Sir:

In response to the Decision on Petition to Withdraw From Record, attached is a Separate Paper Under 37 C.F.R. 1.32 that appoints the attorney(s) and/or agent(s) of record to Customer Number 34610 and copies of the Declaration filed on January 31, 2003.

It is respectfully requested that the Petition to Withdraw the law firm of Fleshner & Kim, LLP and their attorneys filed on October 4, 2005 be granted. It is respectfully requested that the correspondence address be changed, and that all future correspondence be addressed to:

Mr. Kevin Hoffman
15802 Lautrec Ct.
Gaithersburg, MD 20878

OIPE IAP97
NOV 15 2006
PATENT & TRADEMARK OFFICE

Should the Examiner have any questions regarding the above-identified application, the Examiner is invited to contact **Rene A. Vazquez** at the telephone number listed below.

Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,
FLESHNER & KIM, LLP

Mark L. Fleshner
Registration No. 34,596
Rene A. Vazquez
Registration No. 38,647

Attachments: Decision on Petition to Withdraw From Record
Separate Paper Under 37 C.F.R. 1.32 and Declaration filed 1/31/03

P.O. Box 221200
Chantilly, Virginia 20153-1200
703 766-3701 MLF:jld
Date: November 15, 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE IAP97
NOV 15 2006
PATENT & TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FLESHNER & KIM, LLP
P.O. BOX 221200
CHANTILLY VA 20153

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OFFICE OF PETITIONS

In re Application of	:	
Kevin Hoffman et, al	:	
Application No. 10/310,979	:	DECISION ON PETITION
Filed: December 6, 2002	:	TO WITHDRAW
Attorney Docket No. EFRG-004	:	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 October 4, 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 to withdraw all of the attorneys/agents associated with customer number 34610 cannot be approved because, the attorney/agents of record were not appointed by customer number.

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

Telephone inquiries concerning this decision should be directed to Charles Smoot 571-272-3299

David Bucci
Petitions Examiner
Office of Petition

FLESHNER & KIM
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FLESHNER & KIM, LLP
P.O. BOX 221200
CHANTILLY VA 20153

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OFFICE OF PETITIONS

In re Application of

Kevin Hoffman Et al.
Application No. 10/310,981
Filed: December 6, 2002
Attorney Docket No. EFRG-0001

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 4, 2005.

The request is **APPROVED**.

A review of the file record indicates that Mark L. Flesner: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Mark Flesner and attorneys/agents have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

All future communications from the Office will be directed to the first named signing inventor or the assignee of the entire interest under 37 C.F.R. §3.71 at the first copied address below until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

cc: Mr. Kevin Hoffman
15802 Lautrec Ct.
Gaithersburg, MD 20878

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OCT 26 2006
OFFICE OF PETITIONS

FLESHNER & KIM, LLP
P.O. BOX 221200
CHANTILLY VA 20153

In re Application of	:	
Kevin Hoffman et, al	:	
Application No. 10/310,982	:	DECISION ON PETITION
Filed: December 6, 2002	:	TO WITHDRAW
Attorney Docket No. EFRG-004	:	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 October 4, 2005.

The request is **NOT APPROVED**.

The request to withdraw all of the attorneys/agents associated with customer number 34610 cannot be approved because, the attorney/agents of record were not appointed by customer number.

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

Telephone inquiries concerning this decision should be directed to Charles Smoot 571-272-3299

David Bucci
Petitions Examiner
Office of Petition

Cc: Mr. Kevin Hoffman
15802 Lautrec Ct.
Gaithersburg, MD 20878

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United States Patent and Trademark Office
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KED & ASSOCIATES, LLP
P.O. BOX 221200
CHANTILLY, VA 20153-1200

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OFFICE OF PETITIONS

In re Application of	:	
Kevin **HOFFMAN** et al.	:	
Application No. 10/310,982	:	DECISION ON PETITION
Filed: December 6, 2002	:	TO WITHDRAW
Attorney Docket No.	:	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 November 15, 2006.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: MR. KEVIN HOFFMAN
15802 LAUTREC COURT
GAITHERSBURG, MD 20878

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05 AUG 2003

Mark Chao
Takeda Pharmaceutical North America, Inc.
Intellectual Property Department
Suite 500, 475 Half Day Road
Lincolnshire, IL 60069

In re Application of	:	
MORI et al.	:	
Application No.: 10/311,019	:	
PCT No.: PCT/JP01/05257	:	
Int. Filing Date: 20 June 2001	:	DECISION
Priority Date: 21 June 2000	:	
Attorney Docket No.: 2739USOP	:	
For: LIGAND FOR GPR8 AND ITS DNA		

This decision is in response to applicants' "Response to Notice of Missing Requirements under 35 USC 371" filed 04 April 2003 which is being treated as a Petition under 37 CFR 1.182 to change an inventor's name. The petition fee of **$130** will be charged Deposit Account No. 50-0799, per applicants' authorization on the transmittal letter filed 11 December 2002.

BACKGROUND

On 11 December 2002, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia: the basic national fee; a copy of the international application; a preliminary amendment; and executed declaration. The declaration is executed by: Masaaki Mori; Yukio Shimomura; Mioko Harada; Taiji Asami; Yushio Matsumoto; Yuka Adachi; Tsukasa Sugo; Michiko Abe; Mika Got nee Mika Kuirhara; Chieko Kitada; and Takuya Watanabe.

On 10 February 2003, the United States/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the declaration was defective because "Mika Goto nee Mika Kurihara does not appear on the published ampliation an inventor. If there is a change in the inventor's name, please file the relevant papers." Furthermore, the Notification stated that the sequence listing was not in compliance with 37 CFR 1.821-1.825. The notification set a two-month time limit in which to respond.

On 04 April 2003, applicants' filed "Response to Notice of Missing Requirements under 35 USC 371" which included a written sequence listing and computer readable form.

DISCUSSION

Applicant states in the present communication, "[t]he inventor named Mika Kurihara in the international application has since married and changed her name to Mika Goto." The Manual of Patent Examining Procedure at § 605.04(c) requires in instances

where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include (1) the appropriate petition fee and (2) an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order. As noted above, the $130 petition fee has been charged to counsel's Deposit Account No. 50-0799, and thus item (1) has been satisfied.

With regards to item (2), applicants have not provided an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order. Therefore, item (2) has not been satisfied, and thus the petition may not be properly granted at this time.

A review of the application file reveals that the nucleotide and/or amino acid sequence disclosure filed 04 April 2003 does not comply with the requirement for such a disclosure as set forth in 37 CFR 1.821 -1.825. (See Raw Sequence Listing Error Report enclosed.)

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182." No additional petition fee is required.

A proper response must include an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order and a written sequence listing and computer readable form in compliance with 37 CFR 1.821 -1.825. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention to the PCT Legal Office.

Anthony Smith

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

Enclosure: Raw Sequence Listing Error Report

09 SEP 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mark Chao
Takeda Pharmaceutical North America, Inc.
Intellectual Property Department
Suite 500, 475 Half Day Road
Lincolnshire, IL 60069

In re Application of	:	
MORI et al.	:	
Application No.: 10/311,019	:	
PCT No.: PCT/JP01/05257	:	
Int. Filing Date: 20 June 2001	:	DECISION
Priority Date: 21 June 2000	:	
Attorney Docket No.: 2739USOP	:	
For: LIGAND FOR GPR8 AND ITS DNA		

This is a decision on applicants' "Renewed Petition under 37 CFR 1.182" filed in the Patent and Trademark Office (PTO) on 02 September 2003. Applicants are requesting to change the name of the ninth named inventor from Mika Kurihara to Mika Goto due to marriage. The petition was accompanied by an affidavit signed by Mika Goto using both her former name and present name.

DISCUSSION

As stated in the previous Decision, the Manual of Patent Examining Procedure at § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include (1) the appropriate petition fee and (2) an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order. The petition has been reviewed and is approved. The declaration submitted on 11 December 2002 is accepted.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name from Mika Kurihara to Mika Goto is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.

Anthony Smith

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5-16-07

Paper No.: _____

TO SPE OF : **Technology Center** 1647

10/311019

SUBJECT : Request for Certificate of Correction on Patent No.: 7193033 B2

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

Please complete this form and return with file, within **7** days to:

Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**

If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

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

Elisha Evans

Thank You For Your Assistance

Certificates of Correction Branch

Tel. No. 703-308-9390 EXT 110

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

Note your decision on the appropriate box.

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

Comments:

Foreign priority documents have been turned in.

manually

SPE (M. RAO)

1647

Art Unit

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UNITED STATES PATENT AND TRADEMARK OFFICE

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

Lisa A. Haile
Gray Cary Ware & Freidenrich LLP
4365 Executive Drive, Suite 1100
San Diego, CA 92121-2133

In re Application of NELSON, David et al. Application No.: 10/311,030 PCT No.: PCT/US01/04625 Int. Filing Date: 13 February 2001 Priority Date: 23 February 2000 Docket No.: AURO 1340-2 For: MODIFIED FLUORESCENT PROTEINS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicant's "Petition Under 37 CFR §1.37(b) For Revival of an Unintentionally Abandoned Application," filed in the above-captioned application on 10 December 2002 is **GRANTED**.

Applicant indicates that the application went abandoned for failure to timely the US national application and such delay was unintentional. This is construed to mean that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). If this understanding is not correct, applicant must notify the office immediately. The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration has not yet been submitted.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision, including the mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

29 JUN 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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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

In re Application of	:	
NELSON, David et al.	:	
Application No.: 10/311,030	:	DECISION
PCT No.: PCT/US01/04625	:	
Int. Filing Date: 13 February 2001	:	ON PETITION UNDER
Priority Date: 23 February 2000	:	
Docket No.: AURO 1340-2	:	37 CFR 1.181
For: MODIFIED FLUORESCENT PROTEINS	:	

This decision is in response to applicant's "Request for Corrected Official Filing Receipt," filed on 10 November 2004.

BACKGROUND

On 13 February 2001, applicant filed international application PCT/US01/04625, claiming a priority date of 23 February 2000. A demand for international preliminary examination was filed 22 September 2001, prior to the expiration of nineteen months from the priority date. The deadline for entry into the national stage in the United States was thirty months from the priority date, 23 August 2002.

On 02 December 2002, applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by, the basic national fee, the petition fee and a petition to revive.

On 28 March 2003, the Office mailed Decision On Petition, granting applicant's petition to revive the unintentionally abandoned application.

On 16 April 2003, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 23 October 2003, applicant submitted a declaration in compliance with 37 CFR 1.497(a)-(b) and the fee for a five month extension of time.

On 10 November 2004, applicant submitted a new declaration executed by Elize Zamiara and indicating that the original declaration contained a spelling error. Applicant requested a corrected filing receipt.

DISCUSSION

The request for a corrected filing receipt is being treated as a statement under MPEP 201.03, namely that listing "Elize Zamaira" on the international application and the declaration was a typographical error and should have read "Elize Zamiara".

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

Enc: Corrected Filing Receipt

2 6 MAR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Legal Department
Incyte Genomics, Inc.
3160 Porter Drive
Palo Alto, California 94304

In re Application of	:	
YUE, et al.	:	
Application No.: 10/311,034	:	DECISION ON PETITION
PCT No.: PCT/US01/19444	:	UNDER 37 CFR 1.182
Int. Filing Date: 14 June 2001	:	
Priority Date: 15 June 2000	:	
Attorney Docket No.: PI-0125 USN	:	
For: HUMAN KINASES	:	

This decision is in response to applicants' "Communication Re Inventor Name Changes" filed on 10 December 2002, which is being treated as a petition under 37 CFR to change the name of the inventors Chandra Patterson and Narinder Walia due to marriage. The petition fee under 37 CFR 1.17 will be charged to Deposit Account No. 09-0108, as authorized.

DISCUSSION

The petition to correct the inventors names was accompanied by a copy of a "Request To Change Applicants/Inventors Name And Address Under Rule 92bis" that has apparently been filed with the International Bureau ("IB"). If this requested name change was entered in the international application by the IB, then the change would apply to the present national stage application, and no further action would be required. However, a review of the application file reveals that there is no record of a Notification of the Recording of a Change (Form PCT/IB/306) being issued by the IB confirming the requested name change in the international phase. Accordingly, the papers filed on 10 December 2002 have been treated as a petition under 37 CFR 1.182 to make the requested change in the present national stage application.

The Manual of Patent Examining Procedure at § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include the appropriate petition fee and an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or certified copy of the court order. Here, the 10 December 2002 submission included the authorization to charge Deposit Account No. 09-0108 the required petition fee, and it was accompanied by an affidavit signed by both inventors using their former name and present names. Applicants have therefore provided all the requirements for a grantable petition.

03/28/2003 SNAJARRO 00000016 090108 10311034

01 FC:1460 130.00 CH

CONCLUSION

The petition under 37 CFR 1.182 to change the inventors' name from Chandra Patterson to Chandra ARVIZU and Narinder Walia to Narinder CHAWLA is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing with the name of the ninth inventor changed to Narinder K. CHAWLA and the name of the twenty-third inventor changed to Chandra ARVIZU, for review of the national stage papers submitted 10 December 2002, and for issuing of a Notification Of Missing Requirements requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and payment of the $130 surcharge for filing the declaration later than thirty months after the priority date.

Richard M. Ross
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6155
Fax: (703) 308-6459

03 MAR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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INCYTE GENOMICS
3160 Porter Drive
Palo Alto, CA 94304

In re Application of	:	
YUE, Henry *et al*	:	
Application No.: 10/311,035	:	
PCT No.: PCT/US01/19178	:	
Int. Filing Date: 13 June 2001	:	**DECISION**
Priority Date: 16 June 2000	:	
Attorney Docket No.: PI-0123 USN	:	
For: PROTEASES	:	

This decision is in response to applicants' "Communication Re Inventor Name Change" ("Communication") submitted on 10 December 2002.

The Communication was filed to explain the discrepancy between the names of two co-inventors' who are listed on the published PCT application as Narinder K. Walia and Chandra Patterson, and indicated as Narinder K. Chawla and Chandra S. Arvizu on the above-captioned application.

It is noted that applicants submitted a copy of a "Request to Change Applicants/Inventors' Names and Addresses Under Rule 92bis" filed with the International Bureau with the instant papers. However, a change made to the international application in the international phase cannot be effective for the purposes of any designated Office before which the international application has already entered the national phase. *See* PCT Administrative Instructions § 422(a)(iii).

Regardless, § 605.04(c), *Inventor Changes Name*, of the Manual of Patent Examining Procedure lists the procedures required to change the name of an inventor and states, in part:

> The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

Here, applicants provided two affidavits titled "Statement Regarding Name Change" recording the name of Narinder K. Chawla and Narinder K. Walia and signed as such by the co-inventor, and another recording the name of Chandra Patterson and Chandra S. Arvizu and signed as such by the co-inventor. These documents are sufficient to satisfy the requirements for a grantable petition. The $130.00 fee for each petition has been charged from Deposit Account No. 09-0108 as authorized.

CONCLUSION

Applicants' petitions to change the names of two co-inventors are hereby **GRANTED**.

A signed oath or declaration in compliance with 37 CFR 1.497(a) and (b) has not been submitted in the above-captioned application.

This application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee of $130.00 pursuant to 37 CFR 1.492(e) is required.

James Thomson

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

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Norris Mclaughlin & Marcus
220 East 42nd Street
30th Floor
New York NY 10017

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APR 20 2005

OFFICE OF PETITIONS

Applicant: Franzolin
Appl. No.: 10/311,037
International Filing Date: June 26, 2001
Title: INFLATED BAG FOR CLEANING CLOTHES
Attorney Docket No.: 102792-25 (10518P6)
Pub. No.: US 2005/0028290 A1
Pub. Date: February 10, 2005

This is in response to the Request for Corrected Publication under 37 CFR 1.221(b), which was received on March 28, 2005.

The request is DISMISSED.

The instant request is that the patent application publication be republished because the publication includes a material error in that it did not include the preliminary amendment to the claims, which was filed on February 12, 2002[1].

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.[2]

The patent application publication does not include a mistake in the publication by the Office because patent application publications are not required to include preliminary amendments,

[1]The amendment was filed on December 12, 2002.

[2]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).

according to 37 CFR 1.215(a)[3], which says the following, in part:

> (a) ... The patent application publication will be based upon the specification and drawings deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application. The patent application publication may also be based upon amendments to the specification (other than the abstract or the claims) that are reflected in a substitute specification under Sec. 1.125(b), amendments to the abstract under Sec. 1.121(b), amendments to the claims that are reflected in a complete claim listing under Sec. 1.121(c), and amendments to the drawings under Sec. 1.121(d), provided that such substitute specification or amendment is submitted in sufficient time to be entered into the Office file wrapper of the application before technical preparations for publication of the application have begun.

§ 1.215(c) says the following:

> (c) At applicant's option, the patent application publication will be based upon the copy of the application (specification, drawings, and oath or declaration) as amended, provided that applicant supplies such a copy in compliance with the Office electronic filing system requirements within one month of the mailing date of the first Office communication that includes a confirmation number for the application, or fourteen months of the earliest filing date for which a benefit is sought under title 35, United States Code, whichever is later.

While the patent application publication may now include a preliminary amendment to the claims, the Office is not required to use the preliminary amendment. The Office has recently changed the procedures for publication of patent applications so as to publish applications as amended, when possible. Until this past year, patent application publications were published as originally filed. See Patent Application Publications May Now Include Amendments, 1281 Off. Gaz. Pat. Office Notices 53 (April 13, 2004). The applicant did not supply a copy of the application in compliance with § 1.215(c). The Office correctly published the application in accordance with § 1.215(a).

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

Applicant's request for a corrected patent application publication on March 28, 2005, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

---

[3] Changes to Suport Implementation of the United States Patent and Trademark Office 2st Century Strategic Plan; Final Rule, 69 FR 56482 (Sept. 21, 2004).

The request for republication is being treated as request for corrected publication under 37 CFR 1.221(b), as argued by applicant not a request under 37 CFR 1.221(a). The petition fee ($130) and processing fee ($130) paid by applicant for a request for republication under 37 CFR 1.221(a) will be refunded to applicant's deposit account (14-1263).

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions should be addressed as follows:

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

Inquires concerning this communication should be directed to Mark Polutta at (571) 272-7709.

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

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Baker Botts L.L.P
30 Rockefeller Plaza
New York, NY 10112-4498

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SEP 12 2006
OFFICE OF PETITIONS

In re Application of :

Harald D. H. Stover et al. :
Application No. 10/311,043 :
Filed: July 7, 2006 :
Attorney Docket No. 35599-PCT-USA 071 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 1, 2006.

The request is **NOT APPROVED.**

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, ***transfer of file to another firm***, do not meet any the conditions set forth in 37 CFR 10.40.

A change of correspondence address request signed by Jay D. Morrow was filed June 15, 2006. The request is improper a Jay D. Morrow is not an attorney or agent of record.

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

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: Smart & Bigger
55 Metcalfe Street
Suite 900
Ottawa, Ontario K1P 5Y6
Canada

03 JUN 2003

#3

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Ronald W. Burns
Gardere Wynne Sewell LLP
1601 Elm Street, Suite 3000
Dallas, Texas 75201

In re Application of FREDRICKSON, Jesper Application No.: 10/311,072 PCT No.: PCT/SE01/00737 Int. Filing Date: 04 April 2001 Priority Date: 06 April 2000 Attorney Docket No.: 64645-1068 For: SLIDING WINDOW BASED SIGNAL MONITORING	: : : : : : :	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 13 December 2002 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that applicant has submitted the basic national fee of $1040 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

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

Anthony Smith

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

16 JUN 2006

#6

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Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P.
901 New York Avenue, NW
Washington, D.C. 20001-4413

In re Application of :
SERRA, et al. :
Application No.: 10/311,092 : DECISION ON PETITION
PCT No.: PCT/EP01/06358 :
Int. Filing Date: 05 June 2001 :
Priority Date: 14 June 2000 :
Attorney Docket No.: 07040.0145 :
For: PROCESS FOR PRODUCING TYRES, TYRES THUS OBTAINED AND ELASTOMERIC COMPOSITIONS USED THEREIN

This decision in response to applicant's "Request for Withdrawal of Notification of Abandonment" filed 29 June 2005 and "Request for Withdrawal of Notification of Abandonment" filed 22 May 2006, which are being treated as petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 05 June 2001, applicant filed international application PCT/EP01/06358 which claimed a priority date of 14 June 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 20 December 2001. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or at midnight on 14 December 2002.

On 13 December 2002, applicant filed a Transmittal Letter for entry into the national stage accompanied, *inter alia,* by: the requisite basic national fee; a copy of the international application, and a preliminary amendment.

On 14 July 2003, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) together with a surcharge payment were required. The notification set a two-month time limit in which to respond.

On 23 May 2005, the United States Elected Office mailed a Notification of Abandonment under 37 CFR 1.495 (Form PCT/DO/EO/909) indicating that the application

was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 14 July 2003 within the time period set therein.

On 29 June 2005 and 22 May 2006, applicant filed the present petition which was accompanied, among other things: a copy of the declaration and power of attorney filed 15 September 2003; a post card receipt dated 15 September 2003; and a transmittal letter dated 15 September 2003.

DISCUSSION

Applicant states in their present petition that a declaration and power of attorney was received at the United States Patent and Trademark Office on 15 September 2003. A review of the present application reveals that the declaration and power of attorney filed 15 September 2003 is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

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

Here, applicant has provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicant, title of invention, and application number. The receipt itemizes a declaration executed by the inventors. The receipt is stamped "Rec'd. OIPE SEP 15, 2003" across its face is sufficient to indicate that the declaration and power of attorney was in fact received in the Office on 15 September 2003.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

This application will be given an international filing date of 05 June 2001 and a date of **15 September 2003** under 35 U.S.C. 371. The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

Anthony Smith

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

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Paper No. 10

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

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NOV 1 8 2003
OFFICE OF PETITIONS

In re Application of	:	
Andrew Weilandt et al	:	
Application No. 10/311,103	:	NOTICE
Filed: February 24, 2003	:	
Attorney Docket No. P/2432-52	:	

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 3761.

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

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OFFICE OF PETITIONS

ROBERT F. CHISHOLM
GE HEALTHCARE, INC.
IP DEPARTMENT 101 CARNEGIE CENTER
PRICETON NJ 08540-6231

In re Application of	:	
Neil Cook et al.	:	
Application No. 10/311,108	:	ON PETITION
Filed: July 17, 2003	:	
Attorney Docket No. PA0031	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 06, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 15, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) month extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is January 15, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3737 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.

David Bucci
Petitions Examiner
Office of Petitions

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Paper No.

BAYER MATERIAL SCIENCE LLC
100 BAYER ROAD
PITTSBURGH PA 15205

MAR 11 2005

In re Application of:
REICHERT *et al.*
Serial No.: 10/311,115
Filed: Decmber 16, 2002
Attorney Docket No.: **103111151W**

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR § 1.313

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

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed October 5, 2004, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner in the next Office action.

Upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that any 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 Dean Reichard at (571) 272-1984.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Richard Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: 7/18/05

MEB
Paper Number:

In re application of
Jean-Pierre Maes, et al.
Serial No. 10/311,124
Filed: May 20, 2003
For: Heat-Transfer Fluid Containing Nano-Particles
And Carboxylates

DECISION ON
PETITION

This is a response to the request of April 29, 2005, to rescind the Notice of Abandonment, mailed March 29, 2005. This request is treated as a PETITION TO WITHDRAW ABANDONMENT, under 37 C.F.R. 1.181 (no fee required). The petition requests that the abandonment, as set forth in the Notice of Abandonment of March 29, 2005, for failure to timely reply to the Office Action of September 21, 2004, be withdrawn. The petitioner asserts that the response was timely filed on March 21, 2005.

DECISION

USPTO records show that an appropriate response to the Office Action of September 21, 2004 was filed with the office on March 24, 2005, with a Certificate of Mailing date of March 21, 2005, with the appropriate extension of time, thus making the response timely. Therefore, the Notice of Abandonment, of March 29, 2005, is withdrawn, and application will be forwarded to the examiner for processing and consideration of the papers filed March 24, 2005.

The Petition is **Granted**.

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Steven R. Ellinwood
ChevronTexaco Corporation Law Department
Intellectual Property Unit
P.O. Box 6006
San Ramon, CA 94583-6006

29 JUL 2[illegible]

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David M. Shold
The Lubrizol Corporation
29400 Lakeland Boulevard
Wicklife, OH 44092-2298

In re Application of	:	
KOLP, Christopher J.	:	DECISION ON
Application No.: 10/311,151	:	
Int. Filing Date: 21 JUNE 2001	:	REQUEST UNDER
Priority Date: 22 JUNE 2000	:	
Attorney's Docket No.: 2986R-01	:	37 CFR 1.497(d)
For: FUNCTIONALIZED ISOBUTYLENE-POLYENE	:	
POLYENE COPOLYMERS AND DERIVATIVES	:	
THEREFOR	:	

This is a decision on applicants' "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" filed on 22 April 2003, which is being treated under 37 CFR 1.497(d) deleting inventors, James D. Burrington, Stuart L. Bartley, and Philip W. Pike from the declaration.

BACKGROUND

On 21 June 2001, applicants filed international application No. PCT/US01/19785 designating the United States and claiming a priority date of 22 June 2000. A Demand was filed in this international application on 15 January 2002. Accordingly, the deadline for entry into the national stage by paying the basic national fee in the U.S. expired as of midnight of 22 December 2002.

On 12 December 2002, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter were, inter alia, the requisite basic national fee and a preliminary amendment that indicates that "new claims incorporate the amendments that were made during the international preliminary examination. Upon consideration of the scope of the amended claims and inventorship requirements of the U.S. law, it was determined that the proper inventor was Mr. Kolp. Accordingly, the Declaration names him alone, and he alone has signed it." A declaration was submitted at such time executed with only one inventor, Christopher J. Kolp.

On 27 March 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by International application number and international filing date... is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68

- three inventors are missing from the declaration" must be submitted within two months from its 27 March 2003 date of mailing or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 22 April 2003, applicants filed a "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS," which included, *inter alia*, a statement under 37 CFR.1.497(d) deleting James D. Burrington, Stuart L. Bartley, and Philip W. Pike originally listed in the PCT application.

DISCUSSION

A submission under 37 CFR 1.497(d) must include:

(1) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
(2) the fee set forth in § 1.17(I); and
(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see 37 CFR §3.73(b) of this chapter).

However, a review of the application file suggests that at the time of filing the international application James D. Burrington, Stuart L. Bartley, and Philip W. Pike may have been correctly listed as joint inventors of the invention, and that the submission under 37 CFR 1.497(d) is not due to an error in inventorship but rather due to the deletion of certain claims attributed to the inventors being removed. Specifically, the preliminary amendment submitted on 12 December 2002 states, "upon consideration of the scope of the amended claims ... it was determined that the proper inventor was Mr. Kolp." Under this situation, applicants are required to file an oath or declaration with the signatures of all the inventors that are listed in the international application. After the requirements under 35 USC 371 are satisfied applicants may petition under 37 CFR1.48(b) to correct inventorship as a consequence of claim amendments.

Moreover, it appears that the declaration submitted on 12 December 2002 is defective because the international filing date of PCT/US01/19785 is June 21, 2001 and not the typed date on the declaration of June 22, 2001.

Furthermore, the Statement of Assignee Under 37 CFR 1.497(d) signed by the chief patent counsel is improper because this title is not recognized as one who has apparent authority to bind the corporation. Note MPEP 1820.

CONCLUSION

For the reasons above, the request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. The proper reply is either a proper request under 37 CFR 1.497(d) overcoming the above stated defects or an oath or declaration executed by the originally named inventors if the inventorship indicated in the international application is correct. The failure to provide the proper reply will result in Abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.497(d)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459

Boris Milef
PCT Legal Examiner
PCT Legal Office

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17 SEP 2003

David M. Shold
The Lubrizol Corporation
29400 Lakeland Boulevard
Wicklife, OH 44092-2298

In re Application of	:	
KOLP, Christopher J.	:	DECISION ON
Application No.: 10/311,151	:	
Int. Filing Date: 21 JUNE 2001	:	RENEWED REQUEST
Priority Date: 22 JUNE 2000	:	
Attorney's Docket No.: 2986R-01	:	UNDER 37 CFR 1.497(d)
For: FUNCTIONALIZED ISOBUTYLENE-POLYENE	:	
POLYENE COPOLYMERS AND DERIVATIVES	:	
THEREFOR	:	

This is a decision on applicants' "RENEWED REQUEST UNDER 37 CFR 1.497(d)" filed on 15 August 2003, requesting the deletion of inventors, James D. Burrington, Stuart L. Bartley, and Philip W. Pike from the declaration.

BACKGROUND

In a decision from this Office dated 29 July 2003, the request filed on 22 April 2003 was dismissed. The decision questioned whether the submission under 37 CFR 1.497(d) is due to an error in inventorship or rather due to the deletion of certain claims attributed to the inventors being removed.

On 15 August 2003, applicants filed the renewed request accompanied with a new executed declaration and a statement from the assignee under 37 CFR 1.497(d).

DISCUSSION

A review of the renewed request does overcome the dismissal of the decision dated 29 July 2003 because petitioner indicates that "the correction requested is not as a result of amendment or deletion of subject matter attributed to the individuals sought to be removed but from a reexamination of the facts surrounding the conception of the invention". Petitioner has now satisfied requirement 1 of 37 CFR 1.497(d).

In addition, petitioner has now satisfied requirement 3 of 37 CFR 1.497(d) since the resubmitted statement by the assignee signed by Michael F. Esposito, Chief Patent Counsel, and accompanied by a statement that Mr. Esposito is authorized to act in this regard on behalf of the assignee is proper.

The re-executed and corrected declaration is, also, proper

Accordingly, the requests are deemed to satisfy requirements (1), (2), and (3) under 37 CFR 1.497(d).

CONCLUSION

The request to correct inventorship under 37 CFR 1.497(d) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing consistent with this decision. The 35 USC 371 date of this application is **15 August 2003**.

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Boris Milef
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05 AUG 2003

Young & Thompson
745 South 23rd Street
Arlington, VA 22202

In re Application of GUICHARD et al	:	
U.S. Application No.: 10/311,178	:	
PCT Application No.: PCT/FR01/01837	:	
Int. Filing Date: 13 June 2001	:	DECISION
Priority Date Claimed: 13 June 2000	:	
Attorney Docket No.: 0508-1060	:	
For: CYCLIC UREA COMPOUNDS AND	:	
PREPARATION THEREOF	:	

This is in response to the declaration filed 24 June 2003, which is being treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 13 June 2001, applicant filed international application PCT/FR01/01837, which claimed priority of an earlier France application filed 13 June 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 20 December 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 12 December 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 13 December 2002.

On 13 December 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 24 April 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 24 June 2003, applicant filed the present request for status under 37 CFR 1.42 including an executed declaration.

DISCUSSION

The declaration states that inventor Marc Rodriguez is deceased.

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

The declaration filed 24 June 2003 is in compliance with 37 CFR 1.497.

CONCLUSION

For the reasons above, the request for status under 37 CFR 1.42 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 13 June 2001, and a date under 35 U.S.C. 371(c) of 24 June 2003.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

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MAR 16 2007

MARINA LARSON & Associates, LLC
P.O. BOX 4928
DILLON, CO 80435

In re Application of	:
German Spangenberg et al.	:
Serial No.: 10/311,193	: PETITION DECISION
Filed: June 30, 2003	:
Attorney Docket No.: FREE.P-012	:

This is in response to the petition under 37 CFR 1.144, filed December 12, 2006, requesting review of a restriction requirement.

BACKGROUND

A review of this file shows that this application is a national stage filing under 35 USC 371 of PCT /AU01/00705 and as such, is entitled to unity of invention rules under PCT.

On February 10, 2006, the examiner divided the claims 1-30 into nine groups.

On April 25, 2006, Applicants elected Group VI with traverse, requesting rejoining the protein of Group VII and the regulatory element of Group IX.

On September 7, 2006, the examiner mailed a first non-final Office action, acknowledging the election of Group VI and the traversal. The examiner maintained the restriction requirement and made it FINAL.

On December 12, 2006, applicants filed this petition to request that the Office modify the restriction requirement.

On 8 January 2007, applicants filed an amendment to the claims.

DISCUSSION

The petition has been carefully considered in view of the claims as currently pending.

Before the merits of the petition are addressed, it is noted that the current status of some of the pending claim set filed 8 January 2007 is unclear. See the amendment for claims 31-38.

> 31-38. (canceled) A substantially purified or isolated nucleic acid or nucleic acid fragment encoding a sucrose:sucrose 1-fructosyltransferase (1-SST) homologue from a ryegrass (*Lolium*) or fescue (*Festuca*) species.

All amendments filed on or after July 30, 2003 must comply with 37 CFR 1.121 as revised in the notice of final rule making published in the Federal Register on June 30, 2003 at 65 Fed. Reg. 38611. Canceled and not entered claims must be listed by only the claim number and status identifier, without presenting the text of the claims. When applicant submits the text of canceled or not-entered claims in the amendment, the Office may accept such an amendment, if the amendment otherwise complies with 37 CFR 1.121, instead of sending out a notice of non-compliant amendment to reduce the processing time. However, in this case, the text of a single claim which appears to be previously pending claim 31 is unclear. Presentation of the text of a single canceled claim from the group of canceled claims is unclear.

The petition has been carefully considered in view of the claim set as currently pending. Arguments concerning rejoinder of any of Claim 31-38 or any of the claims 16 and 29 which depend, directly or indirectly upon claim 31-38 cannot be addressed in this petition in view of the claim amendment format.

The petition seeks to have claims directed to Groups VI, VII and XI rejoined for examination.

During the national stage as a Designated or Elected Office under 35 U.S.C. 371, PCT Rule 13.1 and 13.2 will be followed when considering unity of invention of claims of different categories without regard to the practice in national applications filed under 35 U.S.C. 111. See MPEP 1850.

As set forth by MPEP 1850,

> "An international application should relate to only one invention or, if there is more than one invention, the inclusion of those inventions in one international application is only permitted if all inventions are so linked as to form a single general inventive concept (PCT Rule 13.1). **With respect to a group of inventions claimed in an international application,** unity of invention exists only when there is a technical relationship among the claimed inventions involving one or more of the same or corresponding special technical features. **The expression "special technical features" is defined in PCT Rule 13.2 as meaning those technical features that define a contribution which each of the inventions, considered as a whole, makes over the prior art.**

Whether or not any particular technical feature makes a "contribution" over the prior art, and therefore constitutes a "special technical feature," should be considered with respect to novelty and inventive step.

Applicants' argument that groups VI, VII and IX share unity of invention has been noted. Applicants have identified the technical feature shared by all the inventions, however this technical feature does not make a contribution over the prior art.

The elected subject matter set forth in claims 9-12 and 29 reads specifically on a functional equivalent of 1-SST homologue. Fructosyl transferase is one type of SST homologue. As such, the technical feature linking all pending claims is a fructosyl transferase from any species. Koops et al teaches the fructosyl transferase from Jerusalem artichoke which anticipates the technical feature.

Claims 25-30, 39 and 48-49 refer to a second product, namely a regulatory element rather than the fructosyl transferase encoding sequence of the elected invention. The regulatory element is confined to the first 1600 bases of SEQ ID NO: 11, but is not merely a subset of SEQ ID NO:11, as the claimed fragment or variant would potentially constitute a different nucleic acid sequence. The function or activity of the regulatory element is different from the function or activity of the gene encoding the polypeptide, requires a different search, and used for a different purpose than the elected invention, namely the expression of a multitude of non-fructosyl transferase encoding heterologous genes, see claim 48, lines 1-2, the recitation of "AN exogenous gene" [emphasis added]. Since the "relevant" part of SEQ ID NO:11 is not identified for the regulatory element, the claims of this regulatory element may be based off of as little as a TATAA box, and therefore read on promoters from different genes including a multitude of genes which do not encode fructosyl transferase and different species, and, in essence, have no technical feature linking them to the elected invention whatsoever.

Claims 46-47 are drawn to the isolated polypeptide which is yet another product which may be encoded by nucleic acid sequences not described in the elected invention. The claims are drawn to a multitude of polypeptide fragments or variants, which are not limited to those isolated from Lolium perenne, the original source of SEQ ID NO:11.

Furthermore, "functionally active fragment" and "variants having at least 90% identity to the RELEVANT part of [emphasis added] the sequences" read on proteins which may have fructosyltransferase activity, but which have different substrates, ie sucrose:fructose fructosyltransferases or fructose:fructose fructosyltransferases. See page 1 of the specification, lines 16-20.

See also the definition of "functionally active .... fragment or variant" on page 4 of the specification, lines 21-23, which "is capable of modifying fructan biosynthesis in a plant." Such fragments and variants clearly read on a multitude of non-SST proteins, including SFT and FFT proteins; and also including regulatory proteins with no enzymatic activity whatsoever. The polypeptide has different uses in the art than the nucleic acid sequence, may be produced by other nucleic acid sequences and is only linked by the technical feature of a fructosyl transferase, which, as mentioned before, is anticipated by the prior art.

DECISION

For these reasons, the petition is **DENIED**.

The lack of unity determination between Groups VI, VII and XI is maintained.

The petition is dismissed with regards to the rejoinder of claims 16 and 29 because they depend directly or indirectly upon claims 31-38. The Office is uncertain as whether applicant intended to cancel, amend or maintain claims 31-38 and cannot at this time ascertain the subject matter of claims 16 and 29. If claims 16 and 29 are amended to depend from or include all the limitations of another claim under examination, claims 16 and 29 will be rejoined and examined.

The application will be forwarded to the examiner for further action consistent with this decision and consideration of the papers filed 8 January 2007.

Any request for reconsideration must be filed within two (2) months of the mailing date of this decision.

Should there be any questions about this decision, please contact Quality Assurance Specialist/Program Manager Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

George C. Elliott

George Elliott
Director, Technology Center 1600
jb/pl

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Incyte Genomics, Inc.
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In re Application of	:	
Lal et al.	:	
Application No.: 10/311,196	:	
PCT No.: PCT/US01/19354	:	
Int. Filing Date: 15 June 2001	:	DECISION
Priority Date: 16 June 2000	:	
Attorney Docket No.: SF-0795 PCT	:	
For: G-Protein Coupled Receptors	:	

This is a decision on applicants' "Communication Re Title Of Application" and "Communication Re Inventor Name Changes" filed on 13 December 2002.

BACKGROUND

This international application was filed on 15 June 2001 and claimed a priority date of 16 June 2000. The International Bureau transmitted a copy of the published international application to the USPTO on 27 December 2001. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Consequently, the thirty period for payment of the basic national fee in the United States expired as of midnight on 16 December 2002.

On 13 December 2002, applicants filed *inter alia* the basic national fee and the instant communications.

DISCUSSION

Review of the record reveals that the declaration of the inventors filed on 13 December 2002 itemizes two joint inventors, Chandra Arvizu and Narinder Chawla, whose names do not appear in the published international application, and that the published international application itemizes two joint inventors, Chandra Patterson and Narinder Walia, whose names do not appear in the declaration of the inventors filed on 13 December 2002. Counsel indicates that "the women have married and changed their names to Chandra S. Arvizu and Narinder K. Chawla, respectively." The communication is accompanied by statements by inventors Arvizu and Patterson, attesting that the name changes were due to their respective marriages. In that this is clearly more than a mere typographic error or phonetic misspelling of applicant's name, a petition under 37 CFR 1.182 is required to resolve this matter. In this regard, counsel's deposit account is being charged in the amount of $130.00 for the petition fee, as authorized by the instant "communication." *See* MPEP 605.04(c).

Regarding the title of the application, counsel indicates that the title appearing on the published international application was the result of an error on the part the International Bureau, but no documentary evidence of this alleged error is provided. Nevertheless, the instant communication is being treated and accepted as an amendment to the title of the invention.

CONCLUSION

The petition to accept the declaration as filed on 13 December 2002 is **GRANTED**.

The request to accept -- G-Protein Coupled Receptors -- as the title of invention is **ACCEPTED**.

This application is being forwarded to the National Stage Processing Branch for further processing.

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23 NOV 2004

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In re Application of:	:	
Kazushigue TOHTA et. al.	:	
Application No.: 10/311,207	:	
PCT Application No.: PCT/JP01/05122	:	
Int. Filing Date: 15 June 2001	:	COMMUNICATION
Atty. Docket No.: 231635US3PCT	:	
Priority Date: 16 June 2000	:	
For: LAPPING APPARATUS AND LAPPING	:	
METHOD FOR A MAGNETIC HEAD	:	

This is a decision in response to applicant's communication filed on 16 January 2003.

BACKGROUND

On 15 June 2001, applicants filed international application PCT/JP01/05122, which designated the U.S. and claimed a priority date of 16 June 2000. Accordingly the 30-month deadline for entry into the U.S. national stage expired at midnight on 16 December 2002.

On 16 December 2002, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite U.S. Basic national fee, an executed Declaration of the inventors and a translation of the international application into English.

On 12 May 2003 the United States Designated/Elected Office (DO/EO/US) issued a form PCT/DO/EO/903 (NOTIICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495). This form indicated that the requirements of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) and all requirements of 35 U.S.C. 371 had been complied with on 16 December 2002.

On 16 January 2003, applicants filed a letter for the purpose of correcting an inadvertent error which had occurred in the translation of the international application filed 16 December 2002. Attached to this letter was a "corrected English translation in the above identified international application." A comparison of the two translations indicates that there are differences in the translation of Claims 1, 15, and 18. For example, in the December 2002 translation, the words --without adhesive material-- appear after the word "surface" in line 15 of

Claim 1, however, these words are not present in Claim 1 as presented in the 16 January 2003 translation. In the December 2002 translation, the word --directly-- appears in line 19 of Claim 1, before the word "imparting" while this word is missing from the January 2003 translation of Claim 1. Similar differences are present in Claims 15 and 18.

DISCUSSION

The translation required by 35 U.S.C. 371(c)(2) is the translation required by PCT Article 22 for national stage filing. It is inherent that this translation must be an accurate translation.

The applicants indicate in the January 2003 letter that the translation filed "on December 16, 2002, is not a correct translation of PCT/JP2001/005122" and that the January 2003 translation is "a corrected English translation of. . ." PCT/JP2001/005122. Clearly, the translation presented in December 2002 is not the same as the translation furnished on 16 January 2003.

The 12 May 2003 Form PCT/DO/EO 903 was clearly issued in error since the translation required by 35 U.S.C. 371(c)(2) had not been submitted at that time.

It is noted that on 16 December 2002, applicants submitted three sheets containing a translation of the annexes to the international Preliminary Examination Report. These sheets have not been entered since they do not qualify as a page for page substitution.

CONCLUSION

For the reasons discussed above, the Form DO/EO/903 issued on 12 May 2003 is in error and is hereby **VACATED**.

This application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for issuance of a corrected Form DO/EO/903 which form will indicate that the requirements of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) and all requirements of 35 U.S.C. 371 have been complied with on **16 January 2003**.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of this letter marked to the attention of the PCT Legal Office.

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PCT Legal Office

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DEC 12 2005

OFFICE OF PETITIONS

In re Application of :
Shindo et al. :
Application No. 10/311,214 :
Filed: December 16, 2002 : ON PETITION
Title of Invention: :
AN ELECTRODE EXTENSION SHEET :
FOR USE IN A LAPPING :
APPARATUS :

This is a decision on the Petition Under 37 CFR § 1.181 requesting that the Ex parte Quayle response due date be re-set due to non-receipt, and that the extension of time fee paid with a response to the Ex parte Quayle Action be refunded.

The Petition to reset the reply period is **dismissed as moot**. The Petition for a refund is **dismissed**.

Background

This Office mailed an Ex parte Quayle action to Applicant on March 9, 2005. The Ex parte Quayle action set a two (2) month period for reply. Extensions of time under 37 CFR 1.136(a) were available.

Applicant filed a response to the Ex parte Quayle action on July 11, 2005, and included a request for a two (2) month extension of time and fee of $450.00.

A Notice of Allowance and Notice of Allowability were subsequently mailed on August 30, 2005. Applicant filed the instant petition on September 28, 2005, and thereafter, Applicant filed a Request for Continued Examination and submission on November 17, 2005.

The instant petition

Applicant files the instant petition and asserts that the Ex parte Quayle action was not received. Applicant provides copies of the docket record where the non-received Ex parte Quayle action would have been entered had it been received. The petition requests resetting of the due date for responding to the Ex parte Quayle action and a refund of the extension of time fee.

Resetting the reply period

In view of the filing of a response to the Ex parte Quayle action and subsequent mailing of Notices of Allowance and Allowability and filing of the RCE, resetting the period for reply to the Ex parte Quayle action has been rendered moot.

Refund request

35 USC § 42(d) provides that:

> The Commissioner may refund any fee paid by mistake or any amount paid in excess of that required.

37 CFR 1.26(a) states in pertinent part that:

The Director may refund any fee paid by actual mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for oral hearing, will not entitle a party to a refund of such fee. The Office will not refund amounts of twenty-five dollars or less unless a refund is specifically requested, and will not notify the payer of such amounts.

OPINION

The applicable statute, 35 USC 42(d), authorizes the Commissioner to refund "any fee paid by mistake or any amount paid in excess of that required." Thus, the patent and Trademark Office (PTO) may refund: (1) a fee paid when no fee is required (*i.e.*, a fee paid by mistake), or (2) any fee paid in excess of the amount of the fee that is required. See Ex Parte Grady, 59 USPQ 276, 277 (Comm'r Pats. 1943)(the statutory authorization for the refund of fees is applicable only to a mistake relating to the fee payment). In the situation in which an applicant or patentee takes an action "by mistake" (e.g.,

files an application "by mistake"), the submission of fees required to take that action (e.g., a filing fee submitted with such application) is not a "fee paid by mistake" within the meaning of 35 U.S.C. § 42(d).

Applicant filed a response to the Ex parte Quayle action and the response, when filed, required a two (2) month extension of time and fee. As such, the extension of time fee was properly charged, and was not a fee paid when no fee was required, and was not a fee paid in an amount in excess of that required.

The applicable regulation, 37 CFR 1.26, requires that the fee paid had to be paid by actual mistake, for a refund to be authorized. The mistake, however, must clearly be in relation to the payment itself in order to be refundable. Grady, supra. Rather, the amount paid herein was owed at the time it was paid, and it was paid by the representative of the applicant. Such is not a mistake within the meaning of the aforementioned statute and regulation that warrants a refund.

Petitioner is reminded that the use of "shall" appears in 35 USC § 41 pertaining to collection of fees upon the filing of an application with the PTO. It is well settled that the use of "shall" in a statute is the language of command, and where the directions of a statute are mandatory, strict compliance with the statutory terms is essential. Farrel Corp. v. U.S. Int'l Trade Comm'n, 942 F.2d 1147, 20 USPQ2d 1912 (Fed. Cir. 1991). That is, it is mandatory that the Director charge, and the applicant pay, the fees specified by statute upon presentation of a request for a service by the PTO. See BEC Pressure Controls Corp. v. Dwyer Instruments, Inc., 380 F.Supp. 1397, 1399, 182 USPQ 190, 192 (N.D. Ind. 1974). As such, the extension fee was due when such was submitted to the PTO on July 11, 2005, and was paid in the correct amount. The language of the statute does not permit the Director any discretion with respect to charging the fees set forth therein. Id.

That Applicant may have erred in presenting the reply to the Ex parte Quayle action in lieu of a petition to restart the reply period based upon non-receipt to the PTO does not warrant a finding that the payment was made "by mistake." Rather, the fee was owed at the time it was paid. As noted in 37 CFR 1.26(a), petitioner's change of purpose does not constitute a "mistake" in payment warranting refund of the fees previously paid. The payment of the fee automatically was due, by statute, when petitioner presented, rightly, or wrongly, the aforementioned

submission to the PTO for the filing of this application. Thus, it is immaterial to the question of "mistake" in payment of the instant extension of time fee that petitioner may have erred in submitting the fee to the PTO.

DECISION

In that Applicant has failed to establish the existence of a mistake in payment of the extension of time fee within the meaning of the statute and regulation, no refund of the entire, or any fractional part thereof, is, or can be, authorized.

Accordingly the petition is dismissed.

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

25 SEP 2003

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Jospeh J. Ruch, Jr.
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In re Application of	:	
SUZUKI, et al.	:	
U.S. Application No.: 10/311,227	:	DECISION ON PETITION
PCT No.: PCT/JP01/05014	:	
Date of Receipt: 13 June 2001	:	UNDER 37 CFR 1.181
Priority Date: 14 June 2000	:	
Attorney's Docket No.: Q73284	:	
For: MICROPARTICLE ARRANGEMENT FILM,	:	
ELECTRICAL CONNECTION FILM,	:	
ELECTRICAL CONNECTION STRUCTURE,	:	
AND MICROPARTICLE ARRANGEMENT	:	
METHOD	:	

This decision is in response to applicant's "Response to Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US)" filed 26 August 2003 in the United States Patent and Trademark Office (USPTO). The filing is being considered as a petition under 37 CFR 1.182. No petition fee is required.

BACKGROUND

On 13 June 2001, applicant filed international application PCT/JP01/05014, which claimed priority of an earlier application filed 14 June 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 20 December 2001. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 14 December 2002.

On 16 December 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the International Application; an Information Disclosure Statement and a First Preliminary Amendment.

On 19 May 2003, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide a signed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a)

and (b), identifying the application by the International application number. Applicant was provided two months to file the proper response and advised that this time could be extended pursuant to 37 CFR 1.136(a). In addition, applicant was advised of the need to provide payment of the $130.00 surcharge for providing an oath or declaration of the inventors later than thirty months from the priority date.

On 26 August 2003, applicant filed the present response accompanied by stamped return postcard, copy of a "Submission of Executed Declaration" a "Petition For Extension of Time Under 37 C.F.R. § 1.136" and copies of a canceled check .

DISCUSSION

A review of the application file does not find a copy of an executed oath or declaration of the inventors contained therein. The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicant has provided a copy of the date-stamped postcard receipt. The postcard identifies the application by applicants, title of invention, and the docket number. Among the items listed on the receipt is "1. Submission of Executed Declaration (in duplicate) with executed Declaration and Power of Attorney, and Check No. 219051 in the amount of $130.00." The receipt is stamped "OIPE MAR 28 2003" across its face. Thus it is clear that applicant filed an executed declaration on 28 March 2003 in the USPTO. However, applicant has not included a copy of the declaration with the present filing and attested that it is a "true and complete copy" of what was originally filed on 28 March 2003. Without a copy of the declaration and a statement from counsel that the document is a true and complete copy of what was originally filed on 28 March 2003 it is not possible to continue National stage processing nor grant applicant's petition.

Applicant has provided sufficient proof to show that an executed declaration was filed prior to the mailing of the form PCT/DO/EO/905 and therefore applicant's petition for extension of time does not need to be considered. No extension fee will be charged.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

If reconsideration of the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.181." No additional fee is required.

13 NOV 2003

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Washington, DC 20037

In re Application of SUZUKI, et al. U.S. Application No.: 10/311,227 PCT No.: PCT/JP01/05014 Int. Filing Date: 13 June 2001 Priority Date: 14 June 2000 Attorney's Docket No.: Q73284 For: MICROPARTICLE ARRANGEMENT FILM, ELECTRICAL CONNECTION FILM, ELECTRICAL CONNECTION STRUCTURE, AND MICROPARTICLE ARRANGEMENT METHOD	DECISION ON RENEWED PETITION UNDER 37 CFR 1.181

This decision is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.181 filed 07 November 2003 in the United States Patent and Trademark Office (USPTO). No petition fee is required.

BACKGROUND

On 25 September 2003, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.181 to accept a copy of an executed declaration originally filed 28 March 2003. Applicant was afforded two months to file any request for reconsideration.

On 07 November 2003, applicant filed the present renewed petition accompanied by a true and complete copy of the executed declaration.

DISCUSSION

As discussed above, applicant's original petition was dismissed as applicant had not included a copy of the declaration and attested that it is a "true and complete copy" of what was originally filed on 28 March 2003. Applicant has presently filed a copy of the declaration and made the proper statement. Applicant previously provided sufficient proof to show that an executed declaration was filed prior to the mailing of the form PCT/DO/EO/905. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

CONCLUSION

Applicant's renewed petition under 37 CFR 1.181 is **GRANTED**.

This application has an international application filing date of 13 June 2001 and will be given a date of **28 March 2003** under 35 U.S.C. 371.

This application is being returned to the DO/EO/US for further processing in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
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Mark DeLuca
Cozen O'Connor
1900 Market Street, The Atrium
Philadelphia, PA 19103

In re Application of MUTHUMANI, Karuppiah et al. Application No.: 10/311,260 PCT No.: PCT/US01/10028 Int. Filing Date: 29 March 2001 Priority Date: 31 March 2000 Docket No.: UPVG0002-100 For: COMPOSITIONS AND METHODS OF USING HIV VPR	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicant's "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 13 December 2002 is **GRANTED**.

Applicant states "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a)-(b) has been submitted.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 13 December 2002 under 35 U.S.C. §371.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

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TECHNOLOGY CENTER 3600

Pillsbury Winthrop, LLP
P.O. Box 10500
McLean, VA 22102

In re Application of
Peter Wilcock
Application No. 10/311,271
Filed: December 13, 2002
For: BUCKLE

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to the Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on August 24, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____.

☐ Certificate of Mailing/Transmission signed on _____.
and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted
dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

☒ Originally sent response filed November 19, 2003 has been found and matched with the application.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response and then to the examiner for prompt action.

SNM/vdb: 9/16/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

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TC 3600

PILLSBURY WINTHROP, LLP
P.O. Box 10500
McLean, VA 22102

In re application of:
Peter Wilcock
Application No. 10/311,271
Filed: December 13, 2002
For: BUCKLE

: **DECISION ON REQUEST**
: **FOR WITHDRAWAL OF**
: **ATTORNEY**

This is a decision on the request filed on November 17, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved because the request does not comply with Item A).

As to Item A), All the attorneys given power in the original Declaration/Power of Attorney (customer no. 00909) are not indicated as being withdrawn in the Request for Withdrawal of Attorney. If only a portion of the attorneys having power wish to be withdrawn while others having power would retain it, that needs to be made clear. Alternatively, it is suggested that the signing attorney withdraw on behalf of himself and all attorneys of record if that is the intent of the petition.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 03/03/05

30 MAY 2003

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of LANCE et al. Application No.: 10/311,279 PCT No.: PCT/AU01/00558 Int. Filing Date: 15 May 2001 Priority Date: 15 May 2000 Attorney Docket No.: 0641-0243P For: CLAMP FOR A LUMBAR SUPPORT	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This decision is in response to applicant's "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b)" filed 17 December 2002.

BACKGROUND

On 15 May 2001, applicant filed international application PCT/AU01/00558, which designated the United States and claimed a priority date of 15 May 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 22 November 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 28 December 2001, which was not within nineteen months from the priority date. Accordingly, the twenty-month period for paying the basic national fee in the United States expired at midnight on 15 November 2001.

On 17 December 2002, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, a declaration of inventors, and the instant "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b)".

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

Application No.: 10/311,279

As to item (1), applicant submitted the basic national fee on 17 December 2002.

As to item (2), applicant submitted the petition fee on 17 December 2002.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

The declaration of inventors filed 17 December 2002 is in compliance with 37 CFR 1.497(a)-(b).

The surcharge of $130 under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the earliest priority date has been charged to Deposit Account 02-2448.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (703) 308-2066
Facsimile: (703) 308-6459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/28/06

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/311292 Patent No.: 7022530 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

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Art Unit

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Thomas W. Tolpin
Welsh & Katz, Ltd.
22nd Floor
120 S. Riverside Plaza
Chicago, IL 60606

In re Application of	:	
IKUTA, Natskuki et al.	:	
Application No.: 10/311,300	:	DECISION ON
PCT No.: PCT/JP01/05213	:	
Int. Filing Date: 19 June 2001	:	PETITIONS
Priority Date: 20 June 2000	:	
Attorney Docket No.: 8840-88951 (P0252US)	:	UNDER 37 CFR 1.137(a) and (b)
For: ELECTROPHORETIC ANALYSIS	:	
METHOD	:	

This decision is in response to applicant's petitions to revive the application for unintentional and unavoidable abandonment filed on 02 November 2004.

BACKGROUND

On 19 June 2001, applicant filed international application PCT/JP01/05213. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 27 December 2001.

On 18 January 2002, applicant filed a Demand for international preliminary examination, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty month period for paying the basic national fee in the United States expired on 20 December 2002.

On 16 December 2002, applicant submitted a transmittal letter under 35 USC 371 and the basic national fee.

On 22 May 2003, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge for late filing of the oath or declaration were required.

On 15 October 2004, the Office mailed Notice of Abandonment.

On 02 November 2004, applicant submitted the instant petitions.

DISCUSSION

Petition Under 37 CFR 1.137(a)

A petition to revive an application for patent unavoidably abandoned under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, (2) the petition fee, (3) a satisfactory showing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition to 1.137(a) was unavoidable and (4) a terminal disclaimer if application was filed before June 8, 1995.

Items (1), (2) and (4) have been met. Applicant has supplied the declaration, surcharge and petition fee. A terminal disclaimer is not required as the application was filed on or after 08 June 1995.

Item (3) has not been satisfied. Applicant indicates that the declaration was misfiled by someone in the law firm, that the attorney not having seen the declaration assumed that it had been sent and did not question further. There is no reference to inquiries into the office's docketing system or to how correspondence for applications is tracked. This does not demonstrate the level of care taken by a person with their most important business. MPEP 711.03(c). Applicant has not established that the entire delay was unavoidable.

Petition Under 37 CFR 1.137(b)

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Items (1), (2), (3) and (4) have been satisfied. The required statement has been made. The proper response and petition fee have been furnished. A terminal disclaimer is not required.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.137(a) is **DISMISSED** without prejudice. The petition under 37 CFR 1.137(b) is **GRANTED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a)."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 02 November 2004 under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4).

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

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OCT 14 2004

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VIRGINIA 22314

In re Application of	:
Dirk Roettger et al	:
Serial No.: 10/311,322	: PETITION DECISION
Filed: April 24, 2003	:
Attorney Docket No.: 231831USOXPCT	:

This is in response to the petition under 37 CFR 1.181, filed July 22, 2004, for withdrawal of abandonment of the above identified application based on a timely response to the Office Action of December 3, 2003 .

A review of the file history shows that the examiner mailed an Office action to applicants on December 3, 2003, setting a three month shortened statutory period for reply. Upon failure to receive a reply the Office mailed a Notice of Abandonment to applicants on July 20, 2004. Applicants state that there was a timely response and have supplied a copy of the submissions including a Supplemental Application Data Sheet, a Request for Priority with a partial copy of the Priority Document, an Amendment, a Request for reconsideration, and a Date Stamped filing Receipt dated March 3, 2004, which is within the three month response period.

The petition is **GRANTED.**

The application will be forwarded to the examiner further action.

Should there be any questions about this decision please contact Jean F. Vollano, by letter addressed to Director, TC 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0648 or by facsimile sent to the general Office facsimile number.

Jean F Vollano for
Bruce Kisliuk
Director, Technology Center 1600

10 AUG 2004

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DENNISON, SCHULTZ, DOUGHERTY & MACDONALD
1727 KING STREET
SUITE 105
ALEXANDRIA, VA 22314

In re Application of THORSTENSEN	:	
U.S. Application No.: 10/311,338	:	
PCT Application No.: PCT/NO01/00282	:	
Int. Filing Date: 03 July 2001	:	DECISION
Priority Date Claimed: 03 July 2000	:	
Attorney Docket No.: 02225	:	
For: FILTER OR FILTER-ELEMENT FOR	:	
MODIFIED ELECTRO-DIALYSIS (MED)	:	
PURPOSES	:	

This is in response to applicant's "Request to Withdraw Holding of Abandonment" filed 24 February 2004, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 03 July 2001, applicant filed international application PCT/NO01/00282, which claimed priority of an earlier Norway application filed 03 July 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 10 January 2002. A Demand for international preliminary examination, in which the United States was elected, was filed on 18 December 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 03 January 2003.

On 31 December 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 22 May 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 26 June 2003, applicant purportedly filed as executed declaration.

On 19 February 2004, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the applicant is abandoned for failure to timely respond to the Notification of Missing Requirements.

On 24 February 2004, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The evidence of record is sufficient to establish that the declaration was originally filed on 26 June 2003. Specifically, the copy of the return postcard, which includes the declaration in its itemized contents and which bears a USPTO date stamp of 26 June 2003, serves as *prima facie* evidence that the declaration was received by the USPTO on 26 June 2003.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 19 February 2004 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 03 July 2001, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 26 June 2003.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

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Jacobson Holman, PLLC
400 Seventh Street N.W.
Suite 600
Washington, DC 20004

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Adriana Caterina Maggi et al. :
Application No. 10/311,347 :
Filed: May 30, 2003 :
Attorney Docket No. P68560USO :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 04, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 12, 2007. A two (2) month extension of time under the provisions of 37 CFR 1.136(a) was obtained on May 12, 2008. Accordingly, the date of abandonment of this application is May 13, 2008. The Request for Continued Examination (RCE) filed May 12, 2008 was not accompanied by a submission as required by 37 CFR 1.114. A Notice of Improper Request for Continued Examination (RCE) was mailed June 23, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until

the filing of a grantable petition pursuant of 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Shelley Clement at (571)272-6052 or in her absence to the undersigned at (571)272-7099.

This application is being referred to Technology Center AU 1632 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.

David Bucci
Petitions Examiner
Office of Petitions

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WESTERMAN, HATTORI, DANIELS & ADRIAN
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

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OFFICE OF PETITIONS

In re Application of :
Jean-Christophe Riat :
Application No. 10/311,359 :
Filed: January 9, 2003 :
Attorney Docket No. 021332 :

ON PETITION

This is a decision on the petition, filed November 23, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on 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 (571) 272-3208.

The examiner of Technology Center AU 2856 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).

0 2 JUL 2003

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Stephen M. Roylance
Greenblum & Bernstein PLC
1941 Roland Clarke Place
Reston, VA 20191

In re Application of LUNDSTROM, David Application No.: 10/311,360 PCT No.: PCT/AU01/00688 Int. Filing Date: 08 June 2001 Priority Date: 09 June 2000 Docket No.: P23101 For: IMPROVED THRESHER ROTOR	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicant's "Petition For Revival of an Application For Patent Unintentionally Abandoned Under 37 CFR 1.137(b), Wherein the Entire Delay Was Unintentional," filed in the above-captioned application on 09 January 2003 is **GRANTED**.

Applicant's statement that the entire delay in entering the national stage in the United States was unintentional is construed to mean "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). If this understanding is not correct, applicant must notify the office immediately. The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration has not yet been submitted.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision, including the mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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Facsimile: (703) 308-6459

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Date Mailed : 07/20/09

Patent No. : 7442788 B2
Patent Issued : 10/28/08
Docket No. : **SAEG114.003APC**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Respecting the alleged errors in the documents filed on 03/10/09; please see attachments. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

In view of the foregoing, your request in this matter is hereby denied.

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703) 756-1574

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/23/09

TO SPE OF : ART UNIT 1635

SUBJECT : Request for Certificate of Correction for Appl. No.: 10311386 Patent No.: 7442788 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☐ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
xDenied	State the reasons for denial below.

Comments: The claim for foreign priority has not been perfected; certified copies of the foreign priority documents have not been received. The Notice of Allowability indicated that no copies have been provided by the International Bureau.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/James D. Schultz/ SPE AU 1635

SPE Art Unit

#4

18 MAR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Philip R Warn
Warn Burgess & Hoffmann
P O Box 70098
Rochester Hills MI 48307

In re Application of REHILL, Graham Application No.: 10/311,410 PCT No.: PCT/US01/19262 Int. Filing Date: 15 June 2001 Priority Date: 15 June 2000 Docket No.: BRI-00038 For: MIRROR WITH INTERCHANGEABLE APPEARANCE COVERS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This decision is in response to Applicant's "Petition Under 37 CFR §1.181," filed in the United States Patent and Trademark Office on 09 March 2004.

BACKGROUND

On 15 June 2001, applicant filed international application PCT/US01/19262, claiming a priority date of 15 June 2000. On 14 December 2001, a demand for international preliminary examination was filed prior to nineteen months from the priority date. The deadline for entry into the national stage in the United States is thirty months from the priority date, or 15 December 2002.

On 12 December 2002, applicant filed a submission for entry into the national stage in the United States.

On 09 May 2003, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating the application went abandoned for failure to pay the basic national fee by thirty months.

On 27 February 2004, applicant submitted copies of a transmittal letter, a certificate of Express Mailing, a check, a petition to revive and a date-stamped postcard receipt.

On 09 March 2004, applicant filed the instant petition, accompanied by a copy of a petition to revive and a copy of a postcard receipt.

DISCUSSION

Petition Under 37 CFR 1.181

A petition under 37 CFR 1.181 to accord a receipt date to paperwork that applicant claims was lost by the Office must be accompanied by (1) a true copy of what applicant claims was originally submitted and (2) proof that the paperwork was submitted on a particular date.

Applicant filed a copy of a postcard receipt listing the serial number, applicant, docket number and a petition to revive. It is date-stamped 27 May 2003 by the USPTO. This is adequate evidence that a petition to revive the instant application was filed on 27 May 2003. Applicant indicates that the enclosed petition is a copy of the petition filed on 27 May 2003. It is accepted as having a receipt date of 27 May 2003.

Petition Under 37 CFR 1.137(b)

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Applicant states that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," which complies with 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision including mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge for late filing of the oath or declaration are required.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MAR 28 2008

OFFICE OF PETITIONS

HAYNES AND BOONE, LLP
901 MAIN STREET
SUITE 3100
DALLAS TX 75202-3789

In re Application of	:	
Robert Lance Cook, et al.	:	
Application No. 10/311,412	:	DECISION ON PETITION
Filed: August 11, 2003	:	TO WITHDRAW
Attorney Docket No. 25791.45.07	:	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 April 3, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

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: **King & Spalding, L.L.P.**
Todd Mattingly
1100 Louisiana Street, Suite 4000
Houston, TX 77002

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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
THE BOWEN BUILDING
875 15TH STREET, N.W. SUITE 800
WASHINGTON DC 20005-2221

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DEC 06 2006
OFFICE OF PETITIONS

In re Application of	:	
MAULT	:	
Application No. 10/311, 414	:	DECISION ON PETITION
Filed: December 31, 2002	:	TO WITHDRAW
Attorney Docket No. MJA-20102/03	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 29, 2006.

The request is **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 Cliff Z. Liu 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.

There is an outstanding Office action mailed August 15, 2006 that requires a reply from 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: **JAMES R. MAULT**
30589 MONARCH COURT
EVERGREEN, CO 80439

cc: **COURTRNEY STANIFORD & GREGORY LLP**
10001 N. DE ANZA BLVD, SUITE 300
CUPERTINO, CA 95014

cc : **COOLEY GODWARD KRONISH LLP**
3000 EL CAMINO REAL
5 PALO ALTO SQUARE
PALO ALTO, CA 94306

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
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/311,414	12/31/2002	James R Mault	MJA-20102/03

CONFIRMATION NO. 8569

OC000000021492541

22903
COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
THE BOWEN BUILDING
875 15TH STREET, N.W. SUITE 800
WASHINGTON, DC 20005-2221

Date Mailed: 12/06/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/29/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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LANXESS CORPORATION
111 RIDC PARK WEST DRIVE
PITTSBURGH, PA 15275-1112

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FEB 04 2009

OFFICE OF PETITIONS

In re Application of
Achim **HARDER, et al.**
Application No. 10/311,418
Filed: June 12, 2003
Attorney Docket No. **LeA 34303**

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed May 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 26, 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 September 27, 2007.

The petition is not accompanied by a statement of express abandonment in favor of the filing of a continuing application. In order to facilitate action, the petition to revive should include reference to the filing of a continuing application and a letter of express abandonment, conditional upon the granting of the petition and of a filing date to the continuing application. Nevertheless, in view of the statement that the reply is the filing of a continuing application, the statement will be construed as a request to expressly abandon this application in favor of the continuing application. If this was not the intent of applicant, the Office should be promptly notified.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1540; and (3) an adequate statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application 12/117,939 filed May 9, 2008.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

Chris Bottorff
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8-14-08

Paper No.: _____

TO SPE OF : ART UNIT 1647

SUBJECT : Request for Certificate of Correction on Patent No.: 7374751

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location 7580, **Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes do not apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

[signature]
SPE

1647
Art Unit

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FLEIT KAIN GIBBONS GUTMAN BONGINI & BIANCO
21355 EAST DIXIE HIGHWAY
SUITE 115
MIAMI, FL 33180

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JAN 23 2008

OFFICE OF PETITIONS

In re Application of
Joseph Keidar, et al.
Application No. 10/311,430
Filed: July 21, 2003
Attorney Docket No. 7044-X07-120

ON PETITION

This is a decision in response to the petition, filed September 17, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 6, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extension of time under the provisions of 37 CFR 1.136(a) was obtained. A Notice of Abandonment was mailed on July 31, 2006. In response, on September 17, 2007 the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the response in the form of an election of the invention to be examined; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application is being referred to Technology Center AU 1631 for consideration of the response filed September 17, 2007.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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ANN R. POKALSKY
DILWORTH & BARRESE
333 EARLE OVINGTON BOULEVARD
UNIONDALE, NY 11553

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APR 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Thomas Schmulling et al	:	
Application No. 10/311,453	:	DECISION ON PETITION
Filed: June 12, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1187-21		

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 19, 2007, to withdraw the above-identified application from issue after payment of the issue fee. This is also a decision on the petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/258,415, filed December 27, 2000.

The petition under 37 CFR 1.313(c)(2) is **GRANTED**.

The petition under 37 CFR 1.78(a)(6) is **GRANTED.**

DISCUSSION OF PETITION UNDER 37 CFR 1.313(c)

Petitioner requests that this application be withdrawn from issue in order to amend the first line of the specification to include a claim for benefit of priority to the above-noted provisional application.

The petition complies with the provisions of 37 CFR 1.313(c)(2). Accordingly, the above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 12, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

---

[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.*

DISCUSSION OF PETITION UNDER 37 CFR 1.78(a)(6)

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) and (iii) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

An amendment was filed on February 23, 2006 (certificate of mailing date of February 21, 2006), to amend the first line of the specification following the title to claim benefit of priority to provisional Application No. 60/258,415, filed December 27, 2000.

All of the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1652 for processing the concurrently filed RCE 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 application.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/311,453	06/12/2003	1652	1886	1187-21	53	3

CONFIRMATION NO. 6683

CORRECTED FILING RECEIPT

OC000000023480971

Ann R Pokalsky
Dilworth & Barrese
333 Earle Ovington Boulevard
Uniondale, NY 11553

Date Mailed: 04/20/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Thomas Schmulling, Berlin, GERMANY;
Tomas Werner, Berlin, GERMANY;

Power of Attorney:

Ann Pokalsky--34697

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/EP01/06833 06/18/2001
which claims benefit of 60/258,415 12/27/2000

Foreign Applications

EUROPEAN PATENT OFFICE (EPO) 00870132.8 06/16/2000
EUROPEAN PATENT OFFICE (EPO) 01870053.4 03/16/2001

If Required, Foreign Filing License Granted: 03/05/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/311,453

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD FOR MODIFYING PLANT MORPHOLOGY, BIOCHEMISTRY AND PHYSIOLOGY

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted

under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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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KEVIN E. BORG
McANDRES, HELD & MALLOY, LTD.
500 WEST MADISON STREET - 34TH FLOOR
CHICAGO, IL 60661

MAILED

DEC 14 2005

Technology Center 2100

In re Application of O'NEILL	:	
Application No.: 10/311,462	:	DECISION ON PETITION
Filing Date: December 13, 2002	:	FOR ACCELERATED
For: SYSTEM AND METHOD FOR	:	EXAMINATION UNDER
UPDATING AND DISTRIBUTING	:	M.P.E.P. §708.02(VIII)
INFORMATION	:	

This is a decision on the petition filed November 8, 2005 under 37 CFR §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII, which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 CFR §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. The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed. If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention. If applicant refuses to make an election without traverse, the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn. Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new 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 >if the claims in the corresponding foreign application are of the same or similar scope to the claims in the U.S. application for which special status is requested<;

(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.

With respect to requirement (D), the petition does not include a copy of the following references deemed most closely related to the subject matter encompassed by the claims: CA 2,339,923 (Peleg), KR 2002-0034228 (Lee), and KR 2001-0100328 (Yoon). Copies of these references are not present in the application file.

With respect to requirement (E), the petition does not contain a detailed discussion of the references to the extent required by 37 CFR 1.111(b) and (c). A proper petition under 37 CFR §1.102(d) must specify with particularity how each cited reference is distinguished from each independent claim. However, in the instances noted below, the present petition states that essentially all of the limitations of the claim are not taught or suggested.

US 6,018,747 (Burns): claims 123 and 146
US 6,526,574 (Jones): claims 123, 141, 146, and 151
CA 2,339,923 (Peleg): claims 146 and 151
KR 2002-0034228 (Lee): claims 141, 146, and 151
KR 2001-0100328 (Yoon): claims 141, 146, and 151
US 2003/0033599 (Rajaram): claims 123, 141, 146, and 151
US 6,615,404 (Garfunkel): claims 123, 141, 146, and 151

A submission that the entirety of a claim is not disclosed by the prior art does not provide a sufficient distinction between the claimed invention and the cited reference. It is noted that the petition properly distinguishes the US 2001/0029178 (Criss) reference from all of the independent claims.

With further regard to the US 6,615,404 (Garfunkel) reference and claim 146, the distinction offered by the petition is not applicable to the claim language of claim 146.

Because the petition fails to satisfy all of the criteria set forth above, the petition to make special is **DISMISSED**.

Any request for reconsideration must be filed within TWO (2) MONTHS from the mailing date of this decision.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3599

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Kevin E. Borg
McAndrew, Held & Malloy
500 W. Madison St.
Suite 3400
Chicago, IL 60661

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TECHNOLOGY CENTER 2100

In re Application of: O'NEILL, PATRICK J.
Application No. 10/311,462
Filed: 13 May 2003
For: SYSTEM AND METHOD FOR UPDATING AND DISTRIBUTING INFORMATION

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the Request for Reconsideration filed 24 January 2006 on the petition to make special under 37 CFR §102(d) and MPEP §708.02(VIII): Accelerated Examination, originally filed on 8 November 2005.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(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 **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application is being forwarded to the Examiner for accelerated examination in accordance with 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 Programs Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

GO

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FEB 24 2006

TECHNOLOGY CENTER 3600

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

In re Application of LANGGARTNER, JOHANN
Appl. No.: 10/311,478
Patent No.: 6,877,820
Filed: December 16, 2002
For: Cast Wheel Rim

DECISION ON PETITON TO CORRECT INVENTORSHIP
37 CFR 1.324

This is a decision on the petition filed June 15, 2005 to correct inventorship under 37 CFR 1.324.

The petition is **Dismissed**.

A petition to correct inventorship as provided by 37 CFR 1.324 requires:

> (**1**) a statement from each person who is being added as an inventor and from each person who is being deleted as an inventor that the inventorship error occurred without any deceptive intention on their part,
> (**2**) a statement from the current named inventors who have not submitted a statement as per "(1)" either agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change,
> (**3**) a statement from all assignees of the parties submitting a statement under "(1)" and "(2)" agreeing to the change of inventorship in the patent; such statement must comply with the requirements of 37 CFR 3.73(b); and
> (**4**) the fee set forth in 37 CFR 1.20(b).

The examiner never considered the petition under 37 CFR 1.48 filed July 09, 2003 during the prosecution of the application. Therefore, the instant Request for Certificate of Correction and the original petition under 37 CFR 1.48 are being treated as a petition under 37 CFR 1.324. The instant petition lacks item (2) above, accordingly applicants petition is dismissed. A renewed petition including correction of the noted deficiencies is suggested.

Telephone inquiries regarding this decision should be directed to S. Joseph Morano, Supervisory Patent Examiner for Art Unit 3617, at (571) 272-6684.

S. Joseph Morano
SPE, Art Unit 3617

SJM: 2/23/06

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TECHNOLOGY CENTER 3600

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

In re Application of LANGGARTNER, JOHANN
Appl. No.: 10/311,478
Patent No.: 6877820
Filed: December 16, 2002
For: Cast Wheel Rim

DECISION ON RENWED PETITON TO CORRECT INVENTORSHIP
37 CFR 1.324

This is a decision on the renewed petition filed May 14, 2008 to correct inventorship under 37 CFR 1.324.

The petition is **Granted**.

A petition to correct inventorship as provided by 37 CFR 1.324 requires:

> (**1**) a statement from each person who is being added as an inventor and from each person who is being deleted as an inventor that the inventorship error occurred without any deceptive intention on their part,
> (**2**) a statement from the current named inventors who have not submitted a statement as per "(1)" either agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change,
> (**3**) a statement from all assignees of the parties submitting a statement under "(1)" and "(2)" agreeing to the change of inventorship in the patent; such statement must comply with the requirements of 37 CFR 3.73(b); and
> (**4**) the fee set forth in 37 CFR 1.20(b).

The renewed petition includes the missing statement outlined in the previous petition decision mailed February 24, 2006. Accordingly, this petition satisfies all of the items above, and the petition is granted. The patent is being forwarded to Certificates of Corrections Branch for issuance of a certificate naming the actual inventors.

Telephone inquiries regarding this decision should be directed to S. Joseph Morano, Supervisory Patent Examiner for Art Unit 3617, at (571) 272-6684.

S. Joseph Morano
SPE, Art Unit 3617

SJM: 7/2/2008

SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/17/08

TO SPE OF : ART UNIT 3617 Morano Samuel (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/311478 Patent No.: 6877020

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: Petition Granted, Certificate approved.

/S. Joseph Morano/
SPE

3617
Art Unit

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Collard & Roe
1077 Northern Boulevard
Roslyn, NY 11576

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In re Application of	:	
Helmuth Konig	:	
Application No. 10/311,493	:	ON PETITION
Filed: December 16, 2002	:	
Attorney Docket No. KONIG-6 PCT	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on February 7, 2008, to revive the above-identified application.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a corrected appeal brief; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3653, for review of the corrected appeal brief filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

06 JUN 2006

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Thomas P. Canty
DAVIDSON, DAVIDSON & KAPPEL, LLC
485 Seventh Avenue, 14th. Floor
New York, New York 10018

In re Application of:	:	
OLEK, Alexander, et. al.	:	
Application No.: 10/311,506	:	DECISION ON
PCT Application No.: PCT/EP01/07539	:	
Int. Filing Date: 02 July 2001	:	PETITION
Atty. Docket No.: 5013.1015	:	
Priority Date: 30 June 2000	:	UNDER 37 CFR 1.181
For: METHOD AND NUCLEIC ACIDS FOR THE	:	
DIFFERENTIATION OF ASTROCYTOMA,	:	
OLIGOASTROCYTOMA AND	:	

This is a decision in response to applicants' papers filed on 11 March 2003. These papers are being treated as a petition under 37 CFR 1.181.

BACKGROUND

On 02 July 2001, applicants filed international application PCT/EP01/07539, which designated the United States of America (U.S.) and claimed the priority of an application filed on 30 June 2000 (30 June 2001 was a Saturday). Accordingly, the 30-month deadline for entry into the U.S. national stage expired at midnight on 30 December 2002.

On 16 December 2002, applicants filed national stage papers for this international application. These papers included, *inter alia,* the requisite basic national fee, a copy of the published international application, a preliminary amendment and a declaration executed by the inventors.

On 21 February 2003 a NOTIFICATION TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE AND/OR AMINO ACID SEQUENCE DISCLOSURES was mailed to applicants. This notification set a two-month time period for response and indicated that the application did "... not contain a "Sequence Listing" as a separate part of the disclosure on paper copy or compact disc, as required by 37 CFR 1.821(c)." The notification required the submission of "An initial or substitute paper copy or

compact disc of the "Sequence Listing," as well as an amendment directing its entry into the specification."

On 11 March 2003, applicants responded with a letter indicating that applicants had, in fact, submitted the required "Sequence Listing" with the 16 December 2002 filing and had already complied with all of the requirements of the 21 February 2003 NOTIFICATION TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE AND/OR AMINO ACID SEQUENCE DISCLOSURES.

On 10 February 2004, a NOTIFICATION OF DEFECTIVE RESPONSE (Form DO/EO/916) was mailed to applicants. This Notification required a paper copy of the sequence listing, as well as an amendment directing its entry into the specification.

Applicants' 11 March 2003 letter is being treated as a petition under 37 CFR 1.181 to vacate the 21 February 2003 NOTIFICATION TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE AND/OR AMINO ACID SEQUENCE DISCLOSURES.

DISCUSSION

The 11 March 2003 letter indicates that a "Sequence Listing" as required by the 21 February 2003 Notification was, in fact, present in the initial filing of 16 December 2002 and includes a copy of a stamped postcard receipt as proof of this fact. The copy of the postcard receipt clearly indicates that the 16 December 2002 filing included a "Transmittal Letter under 37 CFR 1.52(e) and 2 CD ROMs" and a "Submission of CRF under 37 CFR 1.821(e) and 1 CD ROM." This copy of the postcard receipt is stamped as having been received by the "PCT/PTO" on 16 December 2002. This letter also noted that the "Sequence Listing" was entered into the specification by the above-mentioned preliminary amendment.

Thus, applicants have presented prima facie proof that the two copies of the sequence listing required by 37 CFR 1.52(e) and 821(c) and the single copy of the sequence listing required by 37 CFR 1.821(e) were filed on 16 December 2002.

The above mentioned CD ROMs are not present in the file, and can not be located. However, applicants have submitted duplicate copies. A separate copy of the sequence listing on a CD ROM for purposes of 37 CFR 1.821(e) was resubmitted on 30 September 2003. On 12 December 2005, two additional copies of the sequence listing were resubmitted on CD ROMs for purposes of 37 CFR 1.821(c) and 1.52(e).

Applicants have clearly complied with the applicable provisions of 37 CFR 1.52(e) and 821(c) and (e).

CONCLUSION

For the reasons discussed above, the 21 February 2003 NOTIFICATION TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE AND/OR AMINO ACID SEQUENCE DISCLOSURES was mailed in error and is hereby **VACATED**.

Since the original requirement re sequence listings mailed on 21 February 2003 was in error, the 10 February 2004 NOTIFICATION OF DEFECTIVE RESPONSE (Form DO/EO/916) was also mailed in error and is hereby **VACATED**.

This application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for issuance of a Form DO/EO/903 NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495. It is noted that the 35 U.S.C. 371(c)(1), (2) and (4) date for this application is **16 December 2002**.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of this letter marked to the attention of the PCT Legal Office.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Paul A. Bell
PCT Special Programs Examiner
Telephone (571) 272-3278

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HAYNES AND BOONE, LLP
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DALLAS, TX 75202

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OFFICE OF PETITIONS

In re Application of

Jane Louise Saffell :

Application No. 10/311,509

: DECISION ON PETITION

Filed: August 15, 2003

:

Attorney Docket No. 36902.3

This is a decision on the petition under 37 CFR 1.137(b), filed February 8, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the final Office action mailed August 7, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. Extensions of time under 37 CFR 1.136(a) were available. A response was filed on November 7, 2006. By an Advisory Action mailed December 18, 2006, applicant was advised that the response of November 7, 2006, did not place the application in condition for allowance. No further responses were filed within the allowable period, and the application became abandoned on November 8, 2006. A Notice of Abandonment was mailed on February 23, 2007.

Examiner Howard has determined that the amendment filed November 7, 2006, places the application in condition or allowance.

The request for the extension of time within the third month is noted, but cannot be granted as the request was made outside the maximum statutory period set for reply. Further, the request is not necessary as the application was in an abandoned status. The amount of $1020.00 will be refunded to deposit account 08-1394, in due course.

The Notice of Appeal filed February 8, 2007, in the alternative to the amendment is not necessary because the amendment placed the application in condition for allowance. The fee for the Notice of Appeal in the amount of $500.00 will be refunded, accordingly.

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
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of

Jane Louise Saffell :

Application No. 10/311,509

: DECISION ON PETITION

Filed: August 15, 2003

:

Attorney Docket No. 36902.3

This is a decision on the petition under 37 CFR 1.137(b), filed February 8, 2007, to revive the above-identified application.

The decision mailed May 14, 2007, is **vacated**.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the final Office action mailed August 7, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. Extensions of time under 37 CFR 1.136(a) were available. A response was filed on November 7, 2006. By an Advisory Action mailed December 18, 2006, applicant was advised that the response of November 7, 2006, did not place the application in condition for allowance. No further responses were filed within the allowable period, and the application became abandoned on November 8, 2006. A Notice of Abandonment was mailed on February 23, 2007.

Examiner Howard has determined that the amendment filed February 8, 2007, places the application in condition or allowance.

The request for the extension of time within the third month is noted, but cannot be granted as the request was made outside the maximum statutory period set for reply. Further, the request is not necessary as the application was in an abandoned status. The amount of $1020.00 will be refunded to deposit account 08-1394, in due course.

The Notice of Appeal filed February 8, 2007, in the alternative to the amendment is not necessary because the amendment placed the application in condition for allowance. The fee for the Notice of Appeal in the amount of $500.00 will be refunded, accordingly.

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
Petitions Attorney
Office of Petitions

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ON PETITION

In re Application of
Hiroshi Murakami, et al.
Application No. 10/311,522
Filed: April 25, 2003
Attorney Docket No. MATS:038

This is a decision on the petition, filed April 26, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 1, 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 2834 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).

#4

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Mark D. Wieczorek
P.O. Box 70072
San Diego, CA 92167

In re Application of RAPP, et al. Application No.: 10/311,527 PCT No.: PCT/DE01/02246 Int. Filing Date: 14 June 2001 Priority Date: 14 June 2000 Attorney Docket No.: 00140/005001 For: NUCLEIC ACID CODING FOR A BONDING SITE OF A PROTEIN KINASE OF THE MITOGENIC SIGNALING CASCADE OF A GLYCOLYSIS-CATALYSING ENZYME	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 25 June 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the applicants have submitted the small entity basic national fee of $450.00 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National Stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventors and payment of the applicable surcharge is required.

Derek A. Putonen
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (703) 305-0130
Facsimile: (703) 308-6459

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HOLLAND, MI 49423

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OFFICE OF PETITIONS

In re Application of
Walter Gerhard
Application No. 10, 311,529
Filed: December 13, 2002
Attorney Docket No. LEN-021164

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed November 15, 2004.

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before October 15, 2004. Receipt is acknowledged of the requisite issue fee on November 15, 2004.

The application is being forwarded to Publishing Division.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (703) 305-8283.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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SUITE 1400
ARLINGTON VA 22201

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OFFICE OF PETITIONS

In re Patent No. 7,087,384	:	
Issue Date: August 8, 2006	:	
Application No. 10/311,534	:	ON PETITION
Filed: December 16, 2002	:	
Attorney Docket No. LOM-28	:	

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 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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

23 SEP 2

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#5

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DAVID J LEVY, CORPORATE INTELLECTUAL PROPERTY
GLAXO SMITH KLINE
FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK NC 27709-3398

In re Application of DAVIES et al. Application No.: 10/311,559 PCT No.: PCT/EP01/06304 Int. Filing Date: 05 June 2001 Priority Date: 21 June 2000 Attorney Docket No.: PG-4103USW For: MEDICAMENT DISPENSER	DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on applicants' "Response to Notification of Missing Requirements" filed in the United States Patent and Trademark Office (USPTO) via facsimile on 14 July 2003. The response is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 16 December 2002, applicants filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee.

On 03 January 2003, applicants filed a declaration executed by Michael Davies and Paul Kenneth Rand, in compliance with 37 CFR 1.497(a) & (b) along with authorization to charge the $130 surcharge for filing the declaration after the 30 month period to applicant's deposit account.

On 03 July 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that an oath or declaration in compliance with 37 CFR 1.497 and the $130 surcharge was required. The Notification referenced the 12 July 2002 decision.

On 14 July 20032, applicants, in response to the Notification of Missing Requirements, filed a copy of the USPTO mail room date-stamped postcard indicating that an executed declaration was filed on 03 January 2003.

DISCUSSION

The original declaration filed on 03 January 2003 are not located in the application file. However, a review of the finance records for 10/311,559 indicates that the $130 surcharge for filing the declaration after the thirty month period was paid on 03 January 2003.

As stated in section 503 of the Manual of Patent Examining Procedure (8th Ed., August 2001)(MPEP):

> A postcard receipt which itemizes and properly identifies the papers which

are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

A review of the USPTO date-stamped, itemized postcard receipt indicates that the combined declaration and power of attorney was deposited with the USPTO on 03 January 2003.

The evidence submitted is sufficient to establish that a declaration this application was received in the USPTO on 03 January 2003. The communication filed 14 July 2003 includes a copy of the executed declaration. Accordingly, it is appropriate to accept the copy of the declaration as a replacement for the missing original declaration with a deposit date of 03 January 2003. The evidence submitted by applicant, the postcard receipt date stamped by the USPTO, is sufficient to overcome the *prima facie* evidence of the application file itself.

A review of the declaration reveals that the declaration identifies each inventor, and states the residency, citizenship and mailing address of each inventor. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497 are met.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED**.

The copy of the declaration originally submitted on 03 January 2003 and resubmitted on 14 July 2003 is acceptable and meets the requirements of 37 CFR 1.497.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing. The 35 U.S.C. 371 date is **03 January 2003.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467
Facsimile: (703) 308-6459

10/311571

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20051125

DATE : March 19, 2007

TO SPE OF : ART UNIT 2165

SUBJECT : Request for Certificate of Correction on Patent No.: 7,039,626 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

The claims requested for correction have been fully reviewed and there are okay.

for

SPE: Jeffrey Gaffin **Art Unit** 2165

10/311571

CofC

OIPE IAP97
FEB 21 2007
PATENT & TRADEMARK OFFICE

Docket No.: 0033-0845P
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of:
Masafumi HIRATA

Patent No.: 7,039,626 B2

Issued: May 2, 2006

For: INFORMATION PROVIDING DEVICE

REQUEST FOR CERTIFICATE OF CORRECTION
PURSUANT TO 37 CFR 1.322

Certificate
FEB 23 2007
of Correction

Attention: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Upon reviewing the above-identified patent, Patentee noted typographical errors which should be corrected.

In the Claims:

Claims 1, 8, 12-14 have not been amended in accordance with the Amendment filed September 30, 2005. The errors were not in the application as filed by applicant; accordingly no fee is required.

Transmitted herewith is a proposed Certificate of Correction effecting such amendment. Patentee respectfully solicits the granting of the requested Certificate of Correction.

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,039,626 B2
APPLICATION NO.	:	10/311,571
ISSUE DATE	:	May 2, 2006
INVENTOR(S)	:	Masafumi HIRATA

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In the Claims:

Claim 1:

" 1. An information providing device that provides a user with information, comprising: a user database (306) managing user information; an information database (307, 309, 310) managing information to be provided to a user; a database management unit (301) for managing information stored in said user database (306) and said information database (307, 309, 310); an information-receiver deciding unit (302) each time deciding a user who receives information stored in said information database (307, 309, 310) from the user information registered in said user database (306) in accordance with the user information stored in the user database (306) and providing the user with an access right to information; and an access control unit (303) receiving access from the user and dynamically constructing a page to be displayed for said access based on said information database (307, 309, 310). "

Should read:

--1. An information providing device that provides a user with information, comprising:

a user database managing user information for a plurality of users;

an information database managing information to be provided to a user;

a database management unit for managing information stored in said user database and said information database;

an information-receiver deciding unit each time selecting a user to be provided information stored in said information database from the user information registered in said user database in accordance with the user information of said plurality of users stored in the user database and preparing said information to be provided; and

an access control unit receiving an access request from the selected user, determining whether the selected user has an access right to said information, and if the selected user has the access right dynamically constructing a page to be displayed for said information.--

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Falls Church, Virginia 22040-0747

2 3 2007

CG/RWD/khm

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,039,626 B2
APPLICATION NO.	:	10/311,571
ISSUE DATE	:	May 2, 2006
INVENTOR(S)	:	Masafumi HIRATA

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Claim 8:

"8. An information providing device that provides a user with information, comprising: a user database (306) managing user information; an information database (307, 309, 310) managing information to be provided to a user; a database management unit (301) for managing information stored in said user database (306) and said information database (307, 309, 310); an information-receiver deciding unit (302) deciding a user who receives information stored in said information database (307, 309, 310) from the user information registered in said user database (306) in accordance with a prescribed condition and providing the user with an access right to information; and an access control unit (303) receiving access from the user and dynamically constructing a page to be displayed for said access based on said information database (307, 309, 310), wherein said information-receiver deciding unit (302) provides a user having an interest/preference similar to that of a user who was provided with an access right to certain information last time with an access right to that information by priority, in deciding a user who receives an access right to information."

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,039,626 B2
APPLICATION NO.	:	10/311,571
ISSUE DATE	:	May 2, 2006
INVENTOR(S)	:	Masafumi HIRATA

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Should Read:

--8. An information providing device that provides a user with information, comprising:

a user database managing user information for a plurality of users;

an information database managing information to be provided to a user;

a database management unit for managing information stored in said user database and said information database;

an information-receiver deciding unit selecting a user from the plurality of users to be provided information stored in said information database from the user information registered in said user database

in accordance with a prescribed condition and preparing said information to be provided; and

an access control unit receiving an access request from the selected user, determining whether the selected user has an access right to said information and if the selected user has the access right dynamically constructing a page to be displayed for said information, wherein

said information-receiver deciding unit provides a user having an interest/preference similar to that of the user who was provided with an access right to certain information last time with an access right to that information by priority, in the selected user to be provided information.--

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,039,626 B2
APPLICATION NO.	:	10/311,571
ISSUE DATE	:	May 2, 2006
INVENTOR(S)	:	Masafumi HIRATA

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Claim 12:

"12. An information providing method for use in an information providing device including a user database (306) managing user information and an information database (307, 309, 310) managing information to be provided to a user, said method comprising the steps of: managing information stored in said user database (306) and said information database (307, 309, 310) (S901, S902, S911, S1001, S1002, S1014); each time deciding a user who receives information in accordance with the user information stored in the user database (306) for providing an access right to information (S903 S910, S1003 S1013, S2609, S2610); and receiving access from the user and dynamically constructing a page to be displayed for said access (S1201 S1203, S1301 S1307, S1401 S1410, S1501 S1503)."

Should read:

--**12.** An information providing method for use in an information providing device including a user database managing user information for a plurality of users and an information database managing information to be provided to a user, said method comprising the steps of:

managing information stored in said user database and said information database;

each time selecting a user to be provided information in accordance with the user information stored in the user database for preparing said information to be provided; and

receiving an access request from the selected user, determining whether the selected user has an access right to said information, and if the selected user has the access right dynamically constructing a page to be displayed for said information.--

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,039,626 B2
APPLICATION NO.	:	10/311,571
ISSUE DATE	:	May 2, 2006
INVENTOR(S)	:	Masafumi HIRATA

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Claim 13:

" 13. A computer readable recording medium storing an information providing program causing a computer to perform the steps of: managing information stored in a user database (306) managing user information and an information database (307, 309, 310) managing information to be provided to a user (S901, S902, S911, S1001, S1002, S1014); each time deciding a user who receives information in accordance with the user information stored in the user database (306) for providing an access right to information (S903 S910, S1003 S1013, S2609, S2610); and receiving access from the user and dynamically constructing a page to be displayed for said access (S1201 S1203, S1301 S1307, S1401 S1410, S1501 S1503)."

Should read:

--13. A computer readable recording medium storing an information providing program causing a computer to perform the steps of:

managing information stored in a user database managing user information for a plurality of users and an information database managing information to be provided to a user;

each time selecting a user to be provided information in accordance with the user information stored in the user database for preparing said information to be provided; and

receiving an access request from the selected user, determining whether the selected user has an access right to said information, and if the selected user has the access right dynamically constructing a page to be displayed for said information.--

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,039,626 B2
APPLICATION NO.	:	10/311,571
ISSUE DATE	:	May 2, 2006
INVENTOR(S)	:	Masafumi HIRATA

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Claim 14:

" 14. An information providing system, comprising: an information providing device (102); and a terminal device (104, 105) connected to said information providing device (102) over a data communication network (101), wherein said information providing device (102) includes a user database (306) managing user information; an information database (307, 309, 310) managing information to be provided to a user; a database management unit (301) for managing information stored in said user database (306) and said information database (307, 309, 310); an information-receiver deciding unit (302) each time deciding a user who receives information stored in said information database (307, 309, 310) from the user information registered in said user database (306) in accordance with the user information stored in the user database (306) and providing the user with an access right to information; and an access control unit (303) receiving access from the user and dynamically constructing a page to be displayed for said access based on said information database (307, 309, 310)."

Should read:

--14. An information providing system, comprising:

an information providing device; and

a terminal device connected to said information providing device over a data communication network, wherein

said information providing device includes

a user database managing user information for a plurality of users;

an information database managing information to be provided to a user;

a database management unit for managing information stored in said user database and said information database;

an information-receiver deciding unit each time selecting a user to be provided information stored in said information database from the user information registered in said user database in accordance with the user information of said plurality of users stored in the user database and preparing said information to be provided; and

an access control unit receiving an access request from the selected user, determining whether the selected user has an access right to said information, and if the selected user has the access right dynamically constructing a page to be displayed for said information. --

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FEB 2 3 2007

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UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OBLON, SPIVAK, MCCLELLAND, MAIER
& NEUSTADT, PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

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NOV 26 2007

OFFICE OF PETITIONS

In re Application of
Michiko Omori
Application No. 10/311,601
Filed: December 18, 2002
Attorney Docket No. 229586US3XPCT

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed August 1, 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 C. Irvin McClelland on behalf of all attorneys of record who are associated with customer No. 22850.

All attorneys/agents associated with the Customer Number 22850 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

The application will become abandoned for failure to timely file an Appeal Brief or an amendment that places the case in condition for allowance.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: MR. MICHIKO OMORI
MR SATARO SHIMAZAKI
C/O NAKAI INTERNATIONAL PATENT OFFICE
Nakkan Kogyo Shimbun, Ltd. Osaka Branch Office Bldg. 7F
2-16 Kitahahigashi Chuo-ku
Osaka-shi, Osaka 540-0031
Japan

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
10/311,601	12/18/2002	Michiko Omori	229586US3Xpct

CONFIRMATION NO. 8270

POWER OF ATTORNEY NOTICE

22850
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

OC000000026800474

Date Mailed: 11/19/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/01/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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OFFICE OF PETITIONS

FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

In re Application of	:	
Charles A. Angell, et al.	:	
Application No. 10/311,605	:	DECISION GRANTING PETITION
Filed: September 3, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 22193-002US1 / M0057	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 31, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 9, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 1745 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances Hicks

Frances M. Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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OFFICE OF PETITIONS

In re Application of
Angell, et al.
Application No. 10/311,605
Filed: September 3, 2003
Atty. Dkt. No.: : 22193-002US1
/ MO-057

LETTER REGARDING PTA

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed October 28, 2008. The Office thanks applicants for their good faith and candor in bringing this to our attention.

Applicants advise that the adjustment may be longer than appropriate in view of the IDS submitted January 16, 2008.

The Determination of Patent Term Adjustment mailed July 30, 2008 indicates that the patent term adjustment (PTA) to date is 339 days.

Neither the adjustment of 488 days nor the reductions totalling 149 days are in dispute.

However, review of the record reveals that, as indicated by applicants, the Office neglected to assess a reduction in connection with the IDS filed January 16, 2008. In accordance with 37 CFR 1.704(c)(8), the adjustment is further reduced 16 days. The reduction commenced January 1, 2008, the day after the date that the initial reply (RCE) was filed, and ended January 16, 2008, the date that the supplemental reply (IDS) was filed.

Accordingly, at the time of allowance, the application is entitled to an adjustment 323 days (adjustment for Office delays totalling 488 days and reductions for applicants' delays totalling 165 days).

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection with this matter.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

This application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries specific to this decision should be directed to the 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

Day : Monday
Date: 3/16/2009

PALM INTRANET

Time: 11:14:38

PTA Calculations for Application: 10/311605			
Application Filing Date:	09/03/2003	PTO Delay (PTO):	488
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	149
Post-Issue Petitions:	0	Total PTA (days):	323
PTO Delay Adjustment:	-16		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
117	03/16/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		16	
103	07/30/2008	MAIL NOTICE OF ALLOWANCE			
102	07/29/2008	ISSUE REVISION COMPLETED			
101	07/29/2008	DOCUMENT VERIFICATION			
100	07/29/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
99	07/25/2008	NOTICE OF ALLOWABILITY			
98	07/24/2008	DATE FORWARDED TO EXAMINER			
97	05/15/2008	RESPONSE AFTER NON-FINAL ACTION			
96	01/16/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
95	01/16/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
93	02/15/2008	MAIL NON-FINAL REJECTION			
92	02/05/2008	NON-FINAL REJECTION			
89	12/31/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
88	01/16/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
87	01/16/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
86	01/16/2008	REFERENCE CAPTURE ON IDS			
85	01/16/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
83	01/16/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
82	12/31/2007	REFERENCE CAPTURE ON IDS			
81	12/31/2007	INFORMATION DISCLOSURE STATEMENT (IDS)			

		FILED			
80	01/10/2008	DATE FORWARDED TO EXAMINER			
79	12/31/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
78	01/10/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
77	01/10/2008	CASE DOCKETED TO EXAMINER IN GAU			
76	12/31/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
75	12/31/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
74	12/31/2007	MAIL-RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE - WITH ASSIGNED PATENT NO.			
73	12/31/2007	RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE - WITH ASSIGNED PATENT NO.			
72	12/31/2007	WITHDRAWAL PATENT CASE FROM ISSUE			
71	12/31/2007	PETITION ENTERED			
70	12/12/2007	ISSUE NOTIFICATION MAILED			
69	01/01/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
68	11/20/2007	EXPORT TO FINAL DATA CAPTURE			
67	11/23/2007	FILING RECEIPT - CORRECTED			
66	11/19/2007	DISPATCH TO FDC			
65	11/12/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
64	11/09/2007	RESPONSE TO REASONS FOR ALLOWANCE			
63	11/09/2007	ISSUE FEE PAYMENT VERIFIED			
62	11/09/2007	ISSUE FEE PAYMENT RECEIVED			
61	11/13/2007	FILING RECEIPT - CORRECTED			
60	10/12/2007	MISCELLANEOUS INCOMING LETTER			
59	08/20/2007	EXPORT TO INITIAL DATA CAPTURE			
58	08/13/2007	MAIL NOTICE OF ALLOWANCE			
57	08/10/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
56	08/10/2007	ISSUE REVISION COMPLETED			
55	08/10/2007	DOCUMENT VERIFICATION			
54	08/08/2007	NOTICE OF ALLOWABILITY			
53	07/18/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

52	07/18/2007	REFERENCE CAPTURE ON IDS			
51	07/18/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
50	08/03/2007	DATE FORWARDED TO EXAMINER			
49	07/18/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
48	08/03/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
47	07/18/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
46	07/18/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
45	07/17/2007	CORRESPONDENCE ADDRESS CHANGE			
44	07/17/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
43	05/21/2007	FINISHED INITIAL DATA CAPTURE			
42	04/23/2007	EXPORT TO INITIAL DATA CAPTURE			
41	04/18/2007	MAIL NOTICE OF ALLOWANCE			
39	04/05/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
38	04/05/2007	CASE DOCKETED TO EXAMINER IN GAU			
37	04/05/2007	ISSUE REVISION COMPLETED			
36	04/05/2007	DOCUMENT VERIFICATION			
35	04/02/2007	NOTICE OF ALLOWABILITY			
34	03/22/2007	PRELIMINARY AMENDMENT			
33	03/23/2007	DATE FORWARDED TO EXAMINER			
32	03/22/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		86	28
31	03/23/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
30	03/22/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	03/22/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
28	09/26/2006	MAIL FINAL REJECTION (PTOL - 326)			
27	09/21/2006	FINAL REJECTION			
26	09/18/2006	DATE FORWARDED TO EXAMINER			
25	09/18/2006	RESPONSE AFTER NON-FINAL ACTION		63	22
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23	09/18/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			

22	04/17/2006	MAIL NON-FINAL REJECTION			
21	04/13/2006	NON-FINAL REJECTION			
20	04/12/2006	DATE FORWARDED TO EXAMINER			
19	04/06/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
18	03/06/2006	MAIL RESTRICTION REQUIREMENT	488		-1
17	03/02/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
16	02/27/2006	CORRESPONDENCE ADDRESS CHANGE			
15	02/27/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
14	10/21/2005	MISCELLANEOUS INCOMING LETTER			
13	12/16/2003	PRELIMINARY AMENDMENT			
12	02/11/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	02/11/2004	CASE DOCKETED TO EXAMINER IN GAU			
10	02/11/2004	CORRESPONDENCE ADDRESS CHANGE			
9	11/18/2003	TRANSFER INQUIRY TO GAU			
8	11/10/2003	CLEARED BY OIPE CSR			
7	09/03/2003	371 COMPLETION DATE			
6	09/22/2003	APPLICATION DISPATCHED FROM OIPE			
5	09/22/2003	NOTICE OF DO/EO ACCEPTANCE MAILED			
4	09/03/2003	ADDITIONAL APPLICATION FILING FEES			
3	09/03/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/08/06

TO SPE OF : ART UNIT **PCT**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/311609 6980065

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:

Applicant is not entitled to the earlier December 2002 date as their 371 filing date since the requirements of 371(c)(1)(c)(2) and (c)(4) were not met until the filing of the executed oath/declaration by inventors on 22 May 2003. Thus the 371 date of 22 May 2003 is correct and no error occur on the part of the PTO.

_____ SPE

2817 Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/08/06

TO SPE OF : ART UNIT **PCT**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/311609 6980065

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:

Applicant is not entitled to the earlier December 2002 date as their 371 filing date since the requirements of 371(c)(1) (c)(2) and (c)(4) were not met until the filing of the executed oath/declaration by inventors on 22 May 2003. Thus the 371 date of 22 May 2003 is correct and no error occur on the part of the PTO.

SPE

2817
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

Robert Pascal
Supervisory Patent Examiner
Technology Center 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

Date Mailed : February 28, 2008

Patent No. :6,980,065
Inventor :King, Gerard
Patent Issued :December 27, 2005
Title :LOW NOISE BLOCK PCB MOUNTING SYSTEM USING NON-LINEAR INSERTABLE ;PROBES

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Inspection of the application for the patent reveals that in connection with the alleged error pertaining to the filing date; applicant is not entitled to the earlier December 2002 date as their 371 filing date since the requirement of 731(c)(1), (C)(2) and (C)(4) were not met until the filing of the executed oath/declaration by inventors on 22 May 2003. Thus, the 371 date of 22 May 2003 is correct and no error occur on the part of the PTO. There being no fault on the part of the Patent and Trademark Office, it has no authority to a issue certificate of correction under the provisions of 35 U.S.C. 254 and Rule 322 of the Rules of Practice of the United States Patent and Trademark Office in Patent Cases.

In view of the foregoing applicants request in this matter is hereby denied.

In the case that applicant disagrees with decision, a reconsideration filing together with documentation in support of applicants request filed under 1.322 should be submitted. Required documentation may include acknowledgement of receipt.

Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

for Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9380 Ext. 123

Darby & Darby P.C.
P.O. Box 5257
New York, New York 10150-5257

CBN/arg

13 SEP 2004
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SONNENSCHEIN NATH & ROSENTHAL
P.O. Box 061080
Wacker Drive Station
Chicago, IL 60606-1080

In re Application of:	:	
TONOSAKI, et al..	:	
U.S. Application No.: 10/311,614	:	DECISION ON REQUEST
PCT No.: PCT/JP02/04012	:	FOR CORRECTED
International Filing Date: 23 April 2002	:	FILING RECEIPT
Priority Date: 23 April 2001	:	
Attorney's Docket No.: 09792909-5382	:	
For: FILM FORMING METHOD	:	

This decision is issued in response to applicants' "Request For Corrected Filing Receipt" filed 12 May 2003 and resubmitted 12 July 2004. No petition fee is required.

BACKGROUND

On 23 April 2002, applicants filed international application PCT/JP02/04012 which claimed a priority date of 23 April 2001 and which designated the United States. On 07 November 2002, the application was published and a copy of the international application was communicated to the United States Patent And Trademark Office (USPTO) by the International Bureau (IB). The English translation of the application's title listed on the published international application was "Film Forming Method."

The deadline for payment of the basic national fee was thirty months from the priority date, i.e., 23 October 2003.

On 17 December 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment for the basic national fee, a translation of the international application into English, and an executed declaration. The translation and declaration both identified the title of the application as "Film Deposition Method."

On 09 April 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Acceptance" (Form PCT/DO/EO/903)indicating that applicants had satisfied the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4). Also on 09 April 2003, a filing receipt was issued which listed the title of the application as "Film Forming Method," the title listed on the published international application.

On 12 May 2003, applicants filed the "Request For Corrected Filing Receipt" considered herein. The submission asks that the title listed on the filing receipt be corrected to "Film Deposition Method." A copy of this "Request For Corrected Filing Receipt" was resubmitted via facsimile on 12 July 2004.

DISCUSSION

Section 1893.03(e) of the M.P.E.P states the following:

> In addition, the Office will normally use the title of the invention indicated on the cover page of the publication as the title of the national stage application that will appear on the filing receipt. The cover page will include an English translation of the title if the international application was published in a foreign language. See PCT Rule 48.3(c). Applicants desiring to have the filing receipt reflect a title that is different than the English language title appearing on the cover page must submit either a preliminary amendment amending the title or an application data sheet (37 CFR 1.76) with the desired title.

Here, as noted above, the cover page of the published international application included an English translation of the title that read "Film Forming Method." Pursuant to the USPTO policy described above, the filing receipt properly included this title. Applicant has not filed a preliminary amendment or application data sheet to change the title to the requested title, "Film Deposition Method." Accordingly, correction of the title in the filing receipt is not appropriate.

CONCLUSION

Applicants' "Request For Corrected Filing Receipt" filed 12 May 2003 and resubmitted 12 July 2004 is **DISMISSED** without prejudice.

Please direct further correspondence with respect to this matter to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

2 4 JUN 2003

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Diana Hamlet-Cox
Incyte Genomics Inc.
3160 Porter Drive
Palo Alto, CA 94304

In re Application of	:	DECISION ON
GRIFFIN et al.	:	
Application No.: 10/311,623	:	PETITION UNDER
PCT No.: PCT/US01/19942	:	
Int. Filing Date: 21 June 2001	:	37 CFR 1.182
Priority Date: 21 June 2000	:	
For: RECEPTORS	:	

This is a decision on applicants' "Communication Re: Inventor Name Change" treated as a petition under 37 CFR 1.182, filed with the United States Patent and Trademark Office (USPTO) on 17 December 2002. Applicants request that the application reflect joint inventor Chandra Patterson's family name change from Chandra Patterson to Chandra S. Arvizu. The $130 petition fee was authorized to be paid from applicants' deposit account.

On 17 December 2002, within 30 months from priority date of the international application, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*,: the requisite basic national fee and executed declarations. The published international application indicated that the inventor/applicants for the United States of America included Chandra Patterson as a named joint inventor.

On 17 December 2002, applicants also filed the instant communication indicating that Chandra Patterson married and changed her family name to Chandra S. Arvizu subsequent to the filing of the international application along with an affidavit signed by Chandra Patterson indicating the reason for the name change.

06/24/2003 HKAYPAGH 00000145 090108 10311623
01 FC:1460 130.00 DA

DISCUSSION

As explained in MPEP 605.04(c), applicant must provide a signed affidavit setting forth both names and the procedure whereby the change of name was effected, or a certified copy of the court order. Here, applicant submitted the statements of Chandra Patterson regarding their respective change of name. Applicant submitted her respective signed affidavit setting forth the procedure whereby the change of name was effected and identifying both names of applicant, Chandra Patterson to Chandra Arvizu. Thus, the evidence is sufficient to conclude that Chandra

Patterson changed her name by marriage to Chandra Arvizu.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name from Chandra Patterson to Chandra Arvizu is **GRANTED**.

The declarations submitted on 17 December 2002 are acceptable as filed. The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 date is **17 December 2002**.

Applicant is advised that any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: 703-306-5467

06 FEB 2004

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INCYTE GENOMICS
3160 Porter Drive
Palo Alto, California 94304

In re Application of :	:	
RAUMANN, Brigitte, E., et al.	:	
U.S. Application No.: 10/311,624	:	DECISION
PCT No.: PCT/US01/20702	:	
International Filing Date: 27 June 2001	:	
Priority Date: 29 June 2000	:	
Attorney's Docket No.: SI-0141 USN	:	
For: TRANSPORTERS AND ION CHANNELS	:	

This decision is issued in response to applicants' "Response To Notification Of Defective Response" filed 07 October 2003 and treated herein as a request to correct the name of the inventor identified on the international application as Madhu S. Sanjanwala (and on the declaration as Madhusudan S. Sanjanwala) to Madhusudan M. Sanjanwala. No petition fee is required.

BACKGROUND

On 27 June 2001, applicants filed international application PCT/US01/20702 which claimed a priority date of 29 June 2000 and which designated the United States.

On 28 January 2002, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of nineteen months from the priority date. As a result, the deadline for payment of the basic national fee was extended to expire thirty months from the priority date, i.e., 29 December 2002.

On 17 December 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 03 April 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date were required.

On 16 May 2003, applicants filed a response to the Notification Of Missing Requirements which included an executed declaration and the required surcharge payment.

On 04 June 2003, the DO/EO/US mailed a Notification Of A Defective Response (Form PCT/DO/EO/916) indicating that the oath submitted by applicants was defective because the

name of the second inventor in the declaration (Madhusudan S. Sanjanwala) did not correspond to that inventor's name as set forth in the published international application (Madhu S. Sanjanwala).

On 07 October 2003, applicants filed the response considered herein, accompanied by the four month extension fee required to make the submission a timely response to the Notification Of Missing Requirements. The submission includes a statement from counsel confirming that the legal name of the inventor is Madhusudan M. Sanjanwala, as signed by the inventor on the declaration and listed on the Application Data Sheet, and asserting that the listing of this inventor's name as Madhu S. Sanjanwala on the Request and as Madhusudan S. Sanjanwala on the typed portion of the declaration was in error. The submission also asserts that Mr. Sanjanwala has refused to sign a statement regarding the inconsistency in the spelling of his name.

DISCUSSION

The 07 October 2003 submission includes an acceptable explanation of the discrepancy between the name of the second inventor in the typewritten portion of the declaration (Madhusudan S. Sanjanwala), the published international application (Madhu S. Sanjanwala), and the Application Data Sheet (Madhusudan M. Sanjanwala). Specifically, the submission expressly states that the correct, legal name of the inventor is Madhusudan M. Sanjanwala (as listed on the Application Data Sheet and as signed on the declaration by the inventor), and also makes statements which are interpreted as a statement that the incorrect spellings listed on the international application and the typewritten portion of the declaration resulted from typographical errors. Section 605.04(b) of the Manual of Patent Examining Procedure states that, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition is not required, nor is a new oath or declaration under 37 CFR 1.63 needed. Accordingly, the petition under 37 CFR 1.182 was not required, and the $130 petition fee will be refunded to applicant's Deposit Account.

Accordingly, pursuant to applicants' explanation, the name of the second inventor is accepted as Madhusudan M. Sanjanwala. The declaration filed by applicants on 16 May 2003 is therefore no longer defective.

CONCLUSION

Pursuant to applicants' explanation regarding the typographical errors, the name of the second inventor is accepted as Madhusudan M. Sanjanwala. Based on this correction, the declaration filed on 16 May 2003 is no longer considered defective.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accord with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2) and (c4) for this application is 16 May 2003.

Richard M. Ross
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OFFICE OF PETITIONS

SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO, IL 60603-5803

In re Application of Bernt Haugen Application No. 10/311,627 Filed: August 11, 2003 Attorney Docket No. TJK/300	: : : : :	ON PETITION

This is a decision on the petition, filed September 25, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 21, 2005, which set a shortened statutory period for reply of three (3) months. A Notice of Abandonment was mailed on May 8, 2006. In response, on September 25, 2006, the present petition was filed.

The petition is found to comply with the requirements of 37 CFR 1.137(b).

The file is being referred to Technology Center Art Unit 3618 for consideration of the amendment filed September 25, 2006.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BAKER DONELSON BEARMAN, CALDWELL & BERKOWITZ, PC
555 ELEVENTH STREET, NW, SIXTH FLOOR
WASHINGTON, DC 20004

Mail Date: 04/20/2010

Applicant	: James Anthony	: DECISION ON REQUEST FOR
Patent Number	: 7645571	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/311,645	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/04/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **744** 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.

29 MAR 2004

#7

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Richard S. Milner
Cooper & Dunham LLP
1185 Avenue of the Americas
New York, NY 10036

In re Application of	:	
DAVENPORT, Christopher John	:	
Application No.: 10/311,650	:	DECISION ON
PCT No.: PCT/GB01/02787	:	
Int. Filing Date: 22 June 2001	:	PETITION
Priority Date: 23 June 2000	:	
Attorney Docket No.: 68669/CCD/RSM	:	UNDER 37 CFR 1.181
For: A WORK ROLL FOR AN A METHOD	:	
OF PRODUCING METAL FOIL	:	

This decision is in response to "Petition to Withdraw Holding of Abandonment Or In the Alternative, Petition For Revival," filed with the United States Patent and Trademark Office on 05 March 2004.

BACKGROUND

On 22 June 2001, applicant filed international application PCT/GB01/02787, claiming a priority date of 23 June 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 27 December 2001. A demand for international preliminary examination was filed on 13 December 2001. The deadline for entry into the national stage in the United States was 23 December 2002.

On 17 December 2002, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 31 January 2003, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 29 January 2004, applicant submitted a status inquiry letter.

On 13 February 2004, the Office mailed a status letter indicating that a reply had not been received to the Notification of Missing Requirements mailed 31 January 2003, enclosing a copy of the Notification and indicating that the statutory period had run for response and that the application was abandoned.

On 05 March 2004, applicant submitted the instant petition, accompanied by a declaration.

DISCUSSION

The showing required to establish nonreceipt of an Office communication is set forth in the notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not Received*, 1156 O.G. 53 (Nov. 16, 1993). The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Items (1), (2) and (3) have been satisfied. Practitioner states that the Notification of Missing Requirements was not received. Practitioner states that a search of the file jacket and docket records indicates that the Notification was not received. Practitioner has furnished a copy of the docket records where the Notification would have been entered had it been received and has referenced the docket record in practitioner's statement.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

The time period for reply to the Notification of Missing Requirements (Form PCT/DO/EO/905) originally mailed on 31 January 2003 is reset to begin when re-mailed on 13 February 2004.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing, including mailing of Notification of Acceptance (Form PCT/DO/EO/903) and filing receipt. The date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) is 05 March 2004.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 11/14/07

TO SPE OF : ART UNIT 1651

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/311655 Patent No: 7285402 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE

1651
Art Unit

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26 SEP 2003

Fulbright & Jaworski LLP
666 Fifth Avenue
New York, NY 10103

In re Application of	:	
Foldes-Papp and Holm	:	
Application No. 10/311,673	:	
PCT No.: PCT/EP01/07460	:	DECISION ON PETITION
International Filing Date: 29 June 2001	:	UNDER 37 CFR 1.47(a)
Priority Date: 30 June 2000	:	
Attorney Docket No.: HUBR-1239	:	
For: SINGLE MOLECULE SEQUENCING METHOD:		

This is a decision on the applicant's petition under 37 CFR 1.47(a) filed 13 August 2003, to accept the application without the signature of joint inventor Johan Holm.

BACKGROUND

On 29 June 2001, applicant filed international application PCT/EP01/07460 which claimed a priority date of 30 June 2000 and designated the United States. The thirty-month period for paying the basic national fee in the United States was midnight, 30 December 2002.

On 19 December 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 USC 371(c)(1).

On 21 February 2003, the United States Designated/Elected Office mailed Notification of Missing Requirements under 35 USC 371 indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed along with the surcharge for the later filing of the oath or declaration, among other items. The notification set a two-month time limit in which to respond.

On 13 August 2003, applicant filed the instant petition under 37 CFR 1.47(a) along with a request for an extension of time within the fourth month. The petition was accompanied by an oath or declaration signed by only inventor Foldes-Papp, statements authored by Dr. Weiss and James Crawford, and other documentary evidence.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration signed by each 37 CFR 1.47(a) applicant on his behalf and on behalf of the non-signing inventor.

As to Item (1), the petition fee of $130.00 was received on 13 August 2003.

As to Item (3), a the petition states the last known address of the non-signing inventors.

As to Item (4) applicant has provided an oath or declaration that is signed by inventor Foldes-Papp on his behalf and on behalf of the non-signing inventor.

Accordingly, Items (1), (3), and (4) have been satisfied.

As to item (2), applicant has not properly established that inventor Holm refuses to execute the application. The statement of Dr. Weiss speaks to steps taken by someone other than himself, namely Ms. Monique Kiener, to contact inventor Holm and does not provide a firsthand account of the alleged refusal. Section 409.03(d) of the *Manual of Patent Examining Procedure* (MPEP) provides, in pertinent part, that relative to a statement as to the refusal of an inventor to join the application ". . . the circumstances of the presentation of the application papers and the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made." In this instance, the application papers were presented to inventor Holm by Ms. Kiener, therefore; a statement must be provided from Ms. Kiener as she has actual knowledge of the circumstances surrounding the presentation of the application papers and the alleged refusal of inventor Holm to join the application.

Further, it is unclear whether the complete application papers were sent to inventor Holm. Before inventor Holm can be said to have refused to join the application, applicant must provide proof that the complete application papers were presented to him. Section 409.03(d) of the MPEP provides, in pertinent part, 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 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.

Applicant must provide proof that the complete application papers were sent to inventor Holm and not just the oath or declaration.

The statement of James Crawford indicates that the a copy the Declaration/Power of Attorney was sent to the last known address of inventor Holm via Federal Express, but returned by a Ms. Emille who indicated that Mr. Holm does not reside at that address. From this, Mr. Crawford concludes that inventor Holm has refused to join the application. In fact, this scenario is more akin to inventor Holm being unavailable to join the prosecution of the application in which case applicant must establish that a diligent effort was made to locate inventor Holm and present him with the application papers. If applicant wishes to assert that inventor Holm is unavailable, applicant must establish that a diligent effort was made to locate inventor Holm and should refer to Section 409.03(d) of the MPEP in so doing.

For the reasons stated above, it would not be appropriate to accept the application without the signature of inventor Holm under 37 CFR 1.47(a) at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.47(a) is **DISMISSED, without prejudice**.

Applicant's are hereby afforded TWO (2) MONTHS from the mailed date of this decision to file wither 1) an oath or declaration in compliance with 37 CFR 1.497(a)-(b) signed by all inventors or (2) a renewed petition satisfying the requirements under 37 CFR 1.47(a). Any reconsideration request should include a cover letter titled, "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be directed to the Mail Stop PCT, Commissioner for Patents, PO Box 1450, Alexandria, Virginia, 22313-1450.

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

Kenya A. McLaughlin
PCT Detailee
Office of PCT Legal Administration

Telephone (703)305-0010
Facsimile (703) 308-6459

06 MAY 2004

#10

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FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK, NY 10103-3198

In re Application of FOLDES-PAPP et al. Application No.: 10/311,673 PCT No.: PCT/EP01/07460 Int. Filing: 29 June 2001 Priority Date: 30 June 2000 Attorney Docket No.: HUBR-1239 For: SINGLE MOLECULE SEQUENCING METHOD	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicant's renewed petition under 37 CFR 1.47(a) filed in the United States Patent and Trademark Office (USPTO) on 26 November 2003.

BACKGROUND

On 13 August 2003, applicant filed a petition under 37 CFR 1.47(a) in response to a 21 February 2003 Notification of Missing Requirements, in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signature of inventor Johan Holm.

On 26 September 2003, a decision dismissing applicant's petition was mailed indicating that applicant had not properly established that inventor Johan Holm refused to execute the application or that he was unavailable.

On 26 November 2003, applicant filed a renewed petition under 37 CFR 1.47(a), appears to allege that the non-signing inventor both refuses to sign the application and is unavailable.

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Petitioner previously satisfied Items (1), (3) and (4).

Unavailable or Unable to Locate

With respect to item (2), Petitioner appears to argue in his renewed petition, that Mr. Holm is both unavailable and refuses to sign the declaration. In his renewed petition, counsel indicates that on 30 September 2003, a copy of the application with declaration and power of attorney was sent to Johan Holm. A copy of this letter to Mr. Holm indicating the contents of the envelope was not provided as evidence. Counsel states that "delivery of the envelope was attempted on October 15, 2003...and on October 21, 2003...Delivery was not successful because Mr. Holm's address is incorrect." Without describing any further attempts to locate inventor Holm, counsel concludes that "Since we have been unable to locate Mr. Holm, applicants believe that Mr. Holm is unavailable to sign the Declaration."

As indicated in the MPEP Section 409.03(d), *copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.*

Further attempts to locate Mr. Holm have not been pursued and documented, such as Internet searches, E-mail contact to obtain a current address, contact with his former employer or joint inventor to obtain a forwarding address or a request from the Postal Service for his forwarding address. Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, 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. Petitioner's statement of facts under 37 CFR 1.47(a) merely states that Mr. Holm refuses to sign the Declaration and Power of Attorney. Since no further attempts to locate inventor Holm have been documented, it can not be concluded that "a diligent effort" was made to locate the non-signing inventor.

Refusal to Sign

Petitioner also alleges inventor Holm's refusal to sign the application. In this regard, Petitioner presents the declaration of Monique Kiener, Executive Assistant for Gnothis Holding SA. The declaration is based upon Ms. Kiener's personal knowledge. Ms. Kiener states that on 17 March 2003, she forwarded a copy of the application papers including declaration and power of attorney to inventor Holm. (A copy of the letter sent to the inventor itemizing its contents was not provided.) Ms. Kiener does not provide any evidence of receipt of said documents by inventor Holm. In fact, it is puzzling that petitioner states that he has been unable to locate inventor Holm at his last known address but Ms. Kiener was able to locate him to present a copy of the application for his signature.

Ms. Kiener indicates that she sent an E-mail to Johan Holm on 10 April 2003 reminding him to sign the declaration/Power of Attorney. Ms. Kiener states that on or about 05 June 2003, she contacted Mr. Holm by E-mail and that Mr. Holm refused to sign the documents. However, a copy of Mr. Holm's E-mail response in which he allegedly refused to sign the declaration was not provided. Moreover, there was no indication that Mr. Holm refused to sign the application in writing or orally. Ms Kiener did not provide any evidence of the date and time of his refusal and if given, his reason for refusal. Ms. Kiener has not provided proof that Mr. Holm received a complete copy of the application papers including the specification, claims and drawings for this application. Nor has Ms. Kiener demonstrated to the satisfaction of the Office that Mr. Holm refuses to sign. *See* Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP), Proof of Unavailability or Refusal.[1]

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[1] 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. Such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed.

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made.

The action taken by petitioner is not sufficient to prove that "a diligent effort" was made to contact the nonsigning inventor. Under these circumstances, it cannot be concluded that Mr. Holm either refused or is unavailable to sign the application. Petitioner has not demonstrated that: (1) a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/311,673 (specification, including claims, drawings, and declaration) to the nonsigning inventor for his signature and (2) Mr. Holm's unavailability after petitioner's diligent effort or Mr. Holm's refusal to sign, either in writing or orally, these documents.

The evidence submitted does not support a finding that the nonsigning inventors refuse to sign the application for the reasons set forth above. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

The petition under 37 CFR §1.47(a) is **DISMISSED WITHOUT PREJUDICE**.

Any reconsideration on the merits of the petition under 37 CFR §1.47(a) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.47(a)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration
Telephone: (703) 306-5467
Fax: (703)-308-6459

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. Documentary evidence to support facts alleged in the petition or in any statement of facts should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

02 FEB 2005

#13

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FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK, NY 10103-3198

In re Application of FOLDES-PAPP et al.	:
Application No.: 10/311,673	: DECISION ON SECOND
PCT No.: PCT/EP01/07460	:
Int. Filing: 29 June 2001	: RENEWED PETITION
Priority Date: 30 June 2000	:
Attorney Docket No.: HUBR-1239	:UNDER 37 CFR 1.47(a)
For: SINGLE MOLECULE SEQUENCING METHOD	:

This is a decision on applicant's second renewed petition under 37 CFR 1.47(a) filed in the United States Patent and Trademark Office (USPTO) on 06 December 2004. Applicant's request for a five month extension of time is granted.

On 13 August 2003, applicant filed a petition under 37 CFR 1.47(a) in response to a 21 February 2003 Notification of Missing Requirements, in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signature of inventor Johan Holm.

On 26 September 2003, a decision dismissing applicant's petition was mailed indicating that applicant had not properly established that inventor Johan Holm refused to execute the application or that he was unavailable.

On 26 November 2003, applicant filed a renewed petition under 37 CFR 1.47(a), appears to allege that the non-signing inventor both refuses to sign the application and is unavailable. On 06 May 2004, a decision dismissing applicant's petition was mailed.

On 06 December 2004, Petitioner filed the instant response including a declaration executed by Johan Holm. The renewed petition under 37 CFR 1.47(a) is considered moot as a declaration executed by the previously unavailable inventor has now been submitted and is acceptable under 37 CFR 1.497(a) and (b).

CONCLUSION

For the above reasons, the renewed petition under 37 CFR 1.47(a) is considered **MOOT**. The declaration executed by Johan Holm is acceptable. The declaration executed by the joint inventor and submitted on 06 December 2004 in compliance with 37 CFR 1.497 and is acceptable.

This application is being forwarded to United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **06 December 2004.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571)272-3286

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070411

DATE : April 11, 2007

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction on Patent No.: 7,157,466

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE: James O. Wilson Art Unit 1624

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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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SEP 24 2004

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA GA 30309

In re Application of Bill E. Cham. Serial No.: 10/311,679 Filed: December 18, 2002 Attorney Docket No.: 13131-0130	: PETITION TO MAKE SPECIAL

This is in response to applicants= petition filed June 21, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, X. Therefor the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the Office general facsimile number, 703-872-9306.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

24 MAR 2004

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Jerold I. Schneider
PIPER RUDNICK LLP
1200 Nineteenth Street, NW
Washington, D.C. 20036-2412

In re Application of	:	
Marc FOGUENNE et al.	:	DECISION ON PETITION
U.S. Application No.: 10/311,682	:	
PCT No.: PCT/EP01/06861	:	UNDER 37 CFR 1.181
Int. Filing Date: 14 June 2001	:	
Priority Date: 19 June 2000	:	
For: COLOURED SODA-LIME GLASS	:	

This is in response to applicants' Request To Vacate Notice Of Missing Requirements filed by facsimile on 03 March 2004 which is being treated as a petition under 37 CFR 1.181 to vacate the Notice Of Missing Requirements Under 35 U.S.C. 371 In The United States Designated/Elected Office (DO/EO/US) mailed 31 July 2003.

The petition is **GRANTED**.

BACKGROUND

On 14 June 2001, applicants filed international application PCT/EP01/006861, which claimed priority of an earlier application filed 19 June 2000. A copy of the international application was timely received by the United States Patent and Trademark Office (PTO) from the International Bureau. A Demand in which the United States was elected was timely filed. Therefore, the thirty month period for entry into the national stage in the United States expired at midnight on 19 December 2002.

On 19 December 2002, applicants filed a Transmittal Letter (Form PTO-1390) for entry into the national stage in the United States under 35 USC 371, accompanied by, *inter alia*, the requisite basic national fee.

On 31 July 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) (Form PCT/DO/EO/905) requiring applicant to submit an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(e) for submission of the oath or declaration later than thirty months from the priority date. The Notification set a TWO (2) Month period for response.

On 03 March 2004, applicants submitted the instant petition. The petition indicates that a declaration of inventorship under PCT Rule 4.17(iv) was filed on the international filing date as a part of the PCT Request.

DISCUSSION

An initial review of the file revealed that the International Bureau had communicated to the DO/EO/US a copy of the declaration under PCT Rule 4.17(iv) which was unexecuted. A copy of the entire Request was not furnished to the DO/EO/US.

In response to direct communication with the International Bureau, a complete copy of the Request is now present in the application file. The Request includes a declaration of inventorship under PCT Rule 4.17(iv) and is properly executed by virtue of the signatures of the inventors in Box No. X of the Request.

CONCLUSION

For the reasons above, the Notification of Missing Requirements mailed 31 July 2003 is **VACATED**.

This application is being returned to the DO/EO/US for processing in accordance with this decision, including issuance of a Notification Of Acceptance Of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) indicating a 35 U.S.C. 371 date of 19 December 2002.

Michael A. Neas
PCT Special Program Examiner
Office of PCT Legal Administration

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

Telephone: (703) 308-0954
Facsimile: (703) 308-6459

11 MAY 2005

#5

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Supervisor Patent Prosecution Services
Piper Rudnick
1200 Nineteenth Street NW
Washington, DC 20036-2412

In re Application of Jean-Benoit LHOEST Application No.: 10/311,683 PCT No.: PCT/EP01/07061 Int. Filing: 21 June 2001 Priority Date: 23 June 2000 Attorney Docket No.: 4004-046-30 For: GLAZING	DECISION ON PETITION TO VACATE NOTICE OF MISSING REQUIREMENTS

This is a decision on applicant's "Request to Vacate Notice of Missing Requirements" filed in the United States Patent and Trademark Office (USPTO) on 08 November 2004.

On 19 December 2002, applicant filed a transmittal letter requesting entry into the national stage along with the basic national fee.

On 27 June 2003, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration and the surcharge for filing the oath or declaration after the thirty month period was required.

On 08 November 2004, applicant filed a "Request to Vacate Notice of Missing Requirements" indicating that a declaration was filed with the original international application, a copy of which was filed with the national stage application. Thereafter, on 06 January 2005, a Notification of Abandonment was mailed to applicant.

A review of the application file reveals that an executed declaration, in compliance with 37 CFR 1.497(a) & (b) was filed with the Request for International Application on 21 June 2001 and forwarded to the USPTO by the International Bureau (IB).

CONCLUSION

Applicant's Petition to Vacate the 27 June 2003 Notice of Missing Requirements is **GRANTED**. The 27 June 2003 Notice of Missing Requirements ant Notice of Abandonment mailed on 06 January 2005 are hereby **VACATED**.

The declaration submitted with the international application on 21 June 2001 meets the requirements of 37 CFR 1.497(a) & (b) and is acceptable.

This application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 date is **19 December 2002.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286

#3

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17 JUN 2003

Matthew L. Schneider
Burns, Doane, Swecker & Mathis, LLP
P.O. Box 1404
Alexandria, VA 22313-1404

In re Application of	:	
ELMGREN, et al.	:	
Application No.: 10/311,697	:	DECISION ON PETITION
PCT No.: PCT/SE01/01082	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 16 May 2001	:	
Priority Date: 18 May 2000	:	
Attorney Docket No.: 024944-185	:	
For: BEARING ARRANGEMENT FOR A SHAFT	:	

The petition to revive under 37 CFR 1.137(b) filed 19 December 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the application from the due date for the application until the filing of a grantable petition under 37 C.F.R. § 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the applicants have submitted the basic national fee of $1,040.00 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National Stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventors and payment of the applicable surcharge is required.

Derek A. Putonen
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (703) 305-0130
Facsimile: (703) 308-6459

o be Scanned

Draft Petition Decision

Serial No. 10/311,697

Date of Draft 17 Jun 03

Paralegal Spec. [illegible]

Conferee Approval

Petitions Book Nos.

PALM Petition Code 272

Charge Account No.

Fee Code

Fee Code

Fee Code

Granted ✓

Dismissed

Dismissed with Recommendation

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JUN 3 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Miller-Podraza et al.	:	
Application No. 10/311,713	:	DECISION ON PETITION
Filed: 21 May, 2003	:	
Atty Docket No. 0933-0198P	:	

This is a decision on the petition filed on 9 June, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 10 December, 2004, for failure to file a timely reply to the Office action requiring restriction mailed on 9 September, 2004, setting a three (3)

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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)).

month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 5 April, 2005.

The application is being referred to Technology Center Art Unit 1623 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
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JOSEPH S TRIPOLI
THOMSON MULTIMEDIA LICENSING INC
PATENT OPERATION CN 5312
PRINCETON NJ 08543-0028

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OFFICE OF PETITIONS

In re Application of	:	
Yvon LEGALLAIS et al.	:	
Application No. 10/311,726	:	DECISION ON PETITION
Filed: July 18, 2003	:	
Attorney Docket No. **PF000066**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 27, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 05, 2009, 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 06, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of January 05, 2009 is accepted as having been unintentionally delayed.

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 Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 2425 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **BRIAN J. CROMARTY**
2 INDEPENDENCE WAY
PO BOX 5312
PRINCETON NJ 08545-5312

SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/18/07

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/311756 Patent No.: 7169808

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: _____

Yvonne Eddy
SPE

1621
Art Unit

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UNITED STATES PATENT AND TRADEMARK OFFICE

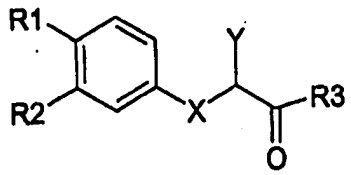
CERTIFICATE OF CORRECTION

PATENT NO. : 7,169,808 B2
DATED : Jan. 30, 2007
INVENTOR(S) : FANTO' ET AL

It is certified that error appears in the above-identified patent and that said letters patent is hereby corrected as shown below:

1. A compound selected from the group consisting of:
- (S)-2-(N-trifluoroacetyl)amino-4-(3-fluoro-4-methoxyphenyl)-butane-hydroxamic acid);
- (S)-2-amino-4-(3-fluoro-4-methoxyphenyl)-butane-hydroxamic acid;
- (3E)-3-methoxycarbonyl-4-(3 -cyclopentoxy-4-methoxyphenyl)-3-butenoic acid;
- (R, S)-3-methoxycarbonyl-4-(3-cyclopentoxy-4-methoxyphenyl)-butanoic acid;
- 4-oxo-4-(3-cyclopentyloxy-4-methoxyphenyl)-butanoic acid;
- methyl (2E)-3-[3-(cyclopentyloxy)-4-methoxyphenyl]-2-[2-(hydroxyamino)-2-oxoethyl]-2-propenoate;
- 4-(3-fluoro-4-methoxyphenyl)-4-oxo-2-[(trifluoroacetyl)-amino]-butanoic acid;
- (2S)-4-(3-fluoro-4-methoxyphenyl)-4-oxo-2-[(trifluoro-acetyl) amino]butanoic acid;
- 4-(3-fluoro-4-methoxyphenyl)-2-[(trifluoroacetyl)amino]-butanoic acid;
- (R, S)-3-methoxycarbonyl-4-(3-cyclopentyloxy-methoxyphenyl)butane-hydroxamic acid;
- methyl (3E)-3-methoxycarbonyl-4-(3-cyclopentyloxy-4-methoxyphenyl)-3-butenoate; and
- (4E)-5-[3-(ciclopentyloxy)-4-methoxyphenyl]-4-(methoxycarbonyl)-4-pentenoic acid.

2. A pharmaceutical composition containing at least one compound of Formula (I):



(I)

where:

R_1 and R_2, which may be the same or different, are halogen, hydroxy, straight or branched C_1-C_4 alkoxy, or C_5-C_6 cycloalkoxy provided that at one of the R_1 or R_2 is C_5-C_6 cycloalkoxy;

X is $-(CH_2)_n-$, $-CO-(CH_2)_n-$, where n is 1 or 2, or X is –CH=;

R_3 is OH, -NHOH, straight or branched C_1-C_4 alkoxy;

Y is H, $-(CH_2)_nCOR_4$, $-COR_4$, $-NHR_5$, where R_4 is OH, -NHOH, straight or branched C_1-C_4 alkoxy, R_5 is H, C_1-C_4 alkanoyl optionally substituted by halogens;

MAILING ADDRESS OF SENDER:

Arthur R. Crawford
NIXON & VANDERHYE P.C.
901 North Glebe Road, 11th Floor
Arlington, Virginia 22201

PATENT NO. 7,169,808 B2

No. of addl
@ 50¢ per page

Form PTO 1050 (Rev. 2-93)

1208432

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,169,808 B2
DATED : Jan. 30, 2007
INVENTOR(S) : FANTO' ET AL

It is certified that error appears in the above-identified patent and that said letters patent is hereby corrected as shown below:

and n is an integer of 1 to 4;

provided that the compound is not 3-(3-cyclopentyloxy-4-methoxybenzyl)-n-propanoic acid or 3-(3-cyclopentyloxy-4-methoxybenzyl)-E-propenoic acid;

its enantiomer, diastereoisomer and mixtures of the same, and its pharmaceutically acceptable salt in admixture with at least one pharmaceutically acceptable vehicle or excipient.

MAILING ADDRESS OF SENDER:

Arthur R. Crawford
NIXON & VANDERHYE P.C.
901 North Glebe Road, 11th Floor
Arlington, Virginia 22201

PATENT NO. 7,169,808 B2

No. of addl @ 50¢ per page

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19 MAY 2003

Sean W. O'Brien
Otis Elevator Company
Intellectual Property Department
Ten Farm Springs
Farmington, Connecticut 06032

In re Application of	:	
AGUADO et al.	:	
Application No.: 10/311,762	:	DECISION ON PETITION
PCT No.: PCT/US01/18897	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 12 June 2001	:	
Priority Date: 12 June 2000	:	
Attorney Docket No.: OT-4556	:	
For: MECHANICAL RESET DEVICE FOR SWITCH	:	

The petition to revive under 37 CFR 1.137(b) filed 17 December 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have submitted the basic national fee of $890 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration along with the $130 surcharge for filing the oath or declaration after the thirty-month period is required.

Anthony Smith

Anthony Smith
Attorney-Advisor
PCT Legal Office
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

28 MAR 2003
UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Legal Department
Incyte Genomics, Inc.
3160 Porter Drive
Palo Alto, California 94304

In re Application of	:	
AU-YOUNG, Janice, et al.	:	
Application No.: 10/311,764	:	DECISION ON PETITION
PCT No.: PCT/US01/19442	:	UNDER 37 CFR 1.182
Int. Filing Date: 14 June 2001	:	
Priority Date: 16 June 2000	:	
Attorney Docket No.: PI-0126 USN	:	
For: PROTEIN PHOSPHOTASES	:	

This decision is in response to applicants' "Communication Re Inventor Name Changes" filed on 16 December 2002, which is being treated as a petition under 37 CFR 1.182 to change the name of the inventors Chandra Patterson and Narinder Walia due to marriage. The petition fee under 37 CFR 1.17 will be charged to Deposit Account No. 09-0108, as authorized.

DISCUSSION

The petition to correct the inventors names was accompanied by a copy of a "Request To Change Applicants/Inventors Name And Address Under Rule 92bis" that has apparently been filed with the International Bureau ("IB"). If this requested name change was entered in the international application by the IB, then the change would apply to the present national stage application, and no further action would be required. However, a review of the application file reveals that there is no record of a Notification of the Recording of a Change (Form PCT/IB/306) being issued by the IB confirming the requested name change in the international phase. Accordingly, the papers filed on 16 December 2002 have been treated as a petition under 37 CFR 1.182 to make the requested change in the present national stage application.

The Manual of Patent Examining Procedure at § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include the appropriate petition fee and an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or certified copy of the court order. Here, the 16 December 2002 submission included the authorization to charge Deposit Account No. 09-0108 the required petition fee, and it was accompanied by an affidavit signed by both inventors using their former name and present names. Applicants have therefore provided all the requirements for a grantable petition.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventors' name from Chandra Patterson to Chandra ARVIZU and Narinder Walia to Narinder CHAWLA is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing with the name of the 20th inventor changed to Narinder K. CHAWLA and the name of the 12th inventor changed to Chandra ARVIZU, for review of the national stage papers submitted 16 December 2002, and for issuing of a Notification Of Missing Requirements requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and payment of the $130 surcharge for filing the declaration later than thirty months after the priority date.

Richard M. Ross
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6155
Fax: (703) 308-6459

03 JUN 2004

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David J. Levy, Corporate Intellectual Property
GLAXOSMITHKLINE
Five Moore Dr.,
P.O. Box 13398
Research Triangle Park, NC 27709-3398
Atlanta, GA 30309

In re Application of :
STRUBOS *et al* :
U.S. Application No.: 10/311,795 :
PCT No.: PCT/GB01/02959 : **DECISION**
Int. Filing Date: 03 July 2001 :
Priority Date: 03 July 2000 :
Attorney Docket No.: P32614USw :
For: HCN POLYPEPTIDES AND :
POLYNUCLEOTIDES AND THEIR USE :
IN THERAPY :

This decision is in response to the "Petition to Correct Filing Date of Application under 35 USC 371" filed 24 October 2003.

BACKGROUND

On 12 March 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) must be provided. A two-month time period for response was set with extensions of time available pursuant to 37 CFR 1.136(a).

On 09 July 2003, applicants submitted via facsimile a "Response to Notification of Missing Requirements" which was accompanied by, *inter alia*, a two-month extension fee of $410.00, the $130.00 surcharge fee, and a copy of a declaration.

On 16 July 2003, resubmitted the signature page of the declaration after receiving a call from the USPTO indicating that the signature page of the declaration was missing.

On 25 April 2003, the DO/EO/US mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 indicating that the application has a date of receipt of all 35 U.S.C. 371 requirements of 16 July 2003.

On 24 October 2003, applicants filed the present petition via facsimile.

DISCUSSION

In response to a request from Charitta A. Burt of the PCT Operations Branch of the USPTO, applicants resubmitted a copy of the signature page of the declaration via facsimile on 16 July 2003. The DO/EO/US then mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 indicating that the application has a date of receipt of all 35 U.S.C. 371 requirements of 16 July 2003.

Applicants request a new filing receipt to indicate that the declaration was originally submitted on 09 July 2003.

A review of the papers filed via facsimile on 09 July 2003 show that a "Certificate of Transmission by Facsimile (37 CFR 1.8) which lists a "Response to Notification of Missing Requirements" was submitted. Applicants provided a copy of a facsimile confirmation sheet showing that 19 pages of the response had been received by facsimile number (703) 305-3230 which is the facsimile number for the PCT Operations Branch of the USPTO.

This evidence is insufficient.

The certificate of transmission pursuant to 37 CFR 1.8 does not demonstrate that a complete declaration in compliance with 37 CFR 1.497(a) and (b) was received by the PCT Operations Branch of the USPTO on 09 July 2003. In addition, the Communication Result Report for the facsimile transmission showing the number of pages received is also not dispositive. The signature page of the declaration could have been blank, illegible, or not sent all. There is no way to verify this from the report.

A date-stamped postcard receipt that clearly identifies that a declaration was submitted and indicating the number of pages for the declaration would be required to show that a complete declaration was received on 09 July 2003. *See* § 503 MPEP.

CONCLUSION

For the reason noted above, applicants' petition for a corrected filing receipt is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision.

It is also noted that a complete response to the Form PCT/DO/EO/905 was not received until 16 July 2003. Accordingly, a three-month extension fee of $930.00, not $410.00 is required. The difference of $520.00 has been charged to Deposit Account No. 07-1392 as authorized.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being sent to Technology Center 1600 for further processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/311,815	12/19/2002	Richard H. Hall	PR0J9- IMTECH	5703

7590 08/12/2009
Christopoher John Rudy
Suite 8
209 Huron Avenue
Port Huron, MI 48060

EXAMINER
ALEXANDER, LYLE

ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
08/12/2009	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

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United States Patent and Trademark Office
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wk

Mailed : AUG 12 2009

In re Application of
Hall et al.
Serial No. 10/311,815
Filed: December 19, 2002
For: VISUAL SPILL INDICATOR

DECISION ON PETITION

This is a decision on the PETITION FILED UNDER 37 CFR 1.144 and 1.181 TO WITHDRAW THE RESTRICTION REQUIREMENT made on August 4, 2008.

In the restriction mailed on August 4, 2008, the Examiner set forth a four-way requirement.

The Examiner has rejoined the claims and allowed the application.

DECISION

Accordingly, the petition to withdraw the restriction requirement is **DISMISSED**.

/Gregory L Mills/
Gregory L. Mills, Acting Director
Technology Center 1700
Chemical and Materials Engineering

Christopher John Rudy
Suite 8
209 Huron Avenue
Port Huron MI 48060

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KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND OR 97204

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JUL 26 2006

OFFICE OF PETITIONS

In re Application of :
Leventhal :
Application No. 10/311,821 : ON PETITION
Filed: December 17, 2002 :
PGPUB. 02/05/2004 US20040023952A1 :

This application has come to the attention of this office by way of the petition under 37 CFR 1.183 filed December 21, 2005, on behalf of the University of Utah ("University") requesting "recognition of its ownership rights in this application in order for a submitted Power of Attorney to be formally recognized by the USPTO."

The petition is dismissed.

In support of the above-noted petition, petitioner proffers sections of the Utah state code, the University's Policy and Procedures Manual, and urges that notwithstanding the absence of a signed assignment by the named inventor, the power of attorney by University, previously refused by the USPTO, should be accepted and further, University should be considered the applicant.

University Is Not the Assignee of the Entire Interest or the "Applicant" in the Absence of Waiver of the Rules under 37 CFR 1.183:

Under 37 CFR 3.71, the assignee of the entire interest may prosecute an application to the exclusion of the named inventor(s), or any previous assignee, and also revoke, or appoint, a power of attorney in an application or patent. Pursuant to 37 CFR 3.73(b) and MPEP 324, that assignee must present its showing to the Office, either prior to, or concurrently with, the paper that requests the action, and that documentation must be recorded at the USPTO.[1] A party

[1] 37 CFR 3.11 *et seq.*, especially 37 CFR 3.21, require that an assignment (not just the recordation cover sheet of 37 CFR 3.31) specifically identify the *application* against which the assignment is to be recorded, which merely codify long-extant USPTO requirements. See Ex Parte Williamson, 1899 C.D. 177, 178 (Comm'r Pat. 1899); In re Aerial Tel. and Power Co., 1912 C.D. 24 (Comm'r Pat. 1912). A distinction must be made between a property right to an "invention," and a property right to a patent application, as a given patent application may or may not embody that "invention." The relevant statutes and regulations only speak to the recordation of the assignment of "applications for patent", not inventions. See, e.g., 35 USC § 261 and 37 CFR 3.11 et seq. Likewise, while 35 USC § 100 defines invention, § 100 does not

must establish that it is the owner of the entire interest, as the owner of only a part interest in an application does not have the sole right to control prosecution of the application. See In re Goldstein, 16 USPQ2d 1963, 1964 (Comm'r Pat. 1988; see also In re Scold, 195 USPQ 335, 335 (Comm'r Pat. 1976); Ex parte Harrison, 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924). The procedures set forth in the regulations (e.g., 37 CFR 3.73(b)) serve to assure that papers filed with the USPTO in an application or patent are submitted on behalf of the owner(s) of the entire interest in the application or patent. See Goldstein, 16 USPQ2d at 1964.

Inventorship is the starting point for determining ownership, see University Patents, Inc. v. Kligman, 762 F.Supp. 1212, 1218-19, 20 USPQ2d 1401, 1405 (E.D. Pa. 1991), and unless there is an assignment, the USPTO will presume the named inventor to be the owner. See 37 CFR 3.73(a). Inspection of USPTO assignment records for the instant application fails to reveal that any written instrument has been recorded, or submitted for recordation, against this application, or the provisional applications whose benefit is herein claimed, signed by Leventhal, that conveys his right title and interest herein to any other party, much less University. Accordingly Leventhal is presumed to retain his ownership interest herein. See 37 CFR 3.73(a). It follows that University is not the assignee of the entire interest of the above-identified application within the meaning of 37 CFR 3.71(a)(1), and as such University is and remains a third party to the proceedings of this application.

Indeed, the third party papers admit that Mr. Leventhal has failed to sign an assignment for the present application. The third party papers either fail to realize, or conveniently ignore, the fact that the lack of a written document bearing Leventhal's signature conveying his right title and interest in this application to University is fatal to its burden of proving that University is the assignee of the entire interest herein for purposes of intervening under 37 CFR 3.73(b). Indeed, the description of Mr. Leventhal's actions (or inactions) is the antithesis of a clear and unmistakable intent to transfer his ownership of this application to University.

Thus, University is not the assignee of the rights of Leventhal, within the meaning of 35 U.S.C. § 261 and 37 CFR 3.73(b) in the absence of Leventhal's signature on an assignment. In order for an instrument to be considered an assignment under the law in and of the United States, the conveyance **must be in writing.** See 35 U.S.C.A. § 256 n. 128. Further, that conveyance **must necessarily be executed by the assignor**. See 35 U.S.C.A. § 256 n. 136; Ashcroft v. Walworth, C.C. Mass 1872, Holmes 152, Fed. Cas. No. 580. Specifically, the assignment must be "in writing" in order to be valid or recognized by the USPTO. Standard Computing Scale Co. v. Lincoln Scale Corp., 57 F.2d 334, 11 USPQ 246 (W.D. Pa. 1931). In other words, the written conveyance must be duly signed by the assignor. American Tobacco v. Ascot Tobacco Works, 165 F. 207 (C.C. N.Y. 1908). While a valid assignment need not be executed under seal, the assignment must nevertheless be executed by the assignor. Gottfried v. Miller, 104 U.S. 521, 26 L.Ed. 851, 1882 C.D. 120. As noted in University Patents, Inc. v. Kligman, supra:

> Assignment of patent must be in writing, and writing must show clear and unmistakable intent to transfer ownership and **must be executed by patentee** or by patentee's

---

define invention as being synonymous with, or meaning, "application for patent." This distinction is further evident from inspection of other sections of Title 35: e.g., 35 §§ 111, 119, 120, 121, 131.

assigns or legal representatives(emphasis added).

As it is undisputed that Leventhal has not executed an instrument in writing that assigned his rights title and interest in this application to University, any contention that University is the assignee of Leventhal's interest must be regarded as untenable. The remainder of the showing attempted to overcome the above-noted fatal lack of an executed assignment of this application by assertions to the effect that under applicable Utah law, this application would be considered "assigned" to University that Leventhal according to the Policy and Procedures Manual of university as an obligation to assign, if not an isntrumernt operating as a conveyance of, this application to University[2].

While petitioner contends that the instant invention was made during the time the inventor was employed by University and under terms of the Policy and Procedures Manual, such that University is the assignee of the entire interest herein, that controversy is properly resolved by litigation in a court of competent jurisdiction. It is well settled that the Office is not the appropriate forum for resolving a dispute concerning the ownership of an application, and, as such, the USPTO will not permit itself to become embroiled in ownership disputes. See, Ex Parte Harrison, 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924); In re Moller, 1904 Dec. Comm'r Pat. 70, 71 (Comm'r Pat. 1904); Ex Parte McTammany, 1900, 168, 181 (Comm'r Pat. 1900); Ex Parte McFarlane, 1896 Dec. Comm'r Pat. 37,38 (Comm'r Pat. 1896); Ex Parte Gallatin, 1892 Dec. Comm'r Pat 106 (Comm'r Pat. 1892).

Third party petitioner is, in essence, seeking to have the PTO make a determination from the proffered documentation, and settle its self created dispute as to the title of this application. It is well settled that the Office is not the appropriate forum for resolving a dispute concerning the ownership of an application, and, as noted above, the PTO will not permit itself to become embroiled in ownership disputes. Indeed, the USPTO has no authority to decide ownership issues. See Cedars-Sinai Medical Center v. Watkins, 11 F.3d. 1573, 1581 n.10, 29 USPQ2d 1188, 1194 n.10 (Fed. Cir 1993), cert. denied, 114 S. Ct. (1994). Rather, state law governs contractual obligations and transfers of property rights, including those relating to patents. See Regents of the University of New Mexico v. Knight, 66 USPQ2d 1001, 1008 (Fed. Cir. 2003). The USPTO cannot settle disputes as to title, or convert whatever equitable title that might exist in this application for petitioner simply by inspection of the documents upon which petitioner relies. Rather, a judicial tribunal is the appropriate forum to resolve such controversy. See Jim Arnold Corp. v. Hydrotech Sys., Inc., 109 F.3d 1567, 1572, 42 USPQ2D 1119, 1123 (Fed. Cir. 1997)("the question of who owns the patent right and on what terms typically is a question exclusively for state courts"); Roach v. Crouch, 24 N.W. 2d 400, 33 USPQ2D 1361 (Iowa 1994) (patent ownership issue properly triable in state court); In re Haines, 1900 C.D. 102, 103 (Comm'r Pat. 1900)(same).

The USPTO will not (and in any event cannot) determine whether Leventhal's position at University operated to convey his rights in the invention set forth in this application to University.

---

[2] An employment agreement is *not* an assignment. An agreement to assign in the future inventions not yet developed may vest the promisee with equitable rights in those inventions once made; however, such an agreement does not *by itself* vest legal title to patents on the inventions in the promisee. Arachnid v. Merit Industries, 939 F.2d 1574, 19 USPQ2d 1513, 1518 (Fed. Cir. 1991).

With respect to the request for extraordinary relief under 37 CFR § 1.183:

For the reasons noted above, petitioner must be regarded as a third party with respect to this application. A mere assertion of a right to have the Office act in accordance with the statutes and regulations does not confer standing upon a third party. The Boeing Company v. Commissioner of Patents and Trademarks, 853 F.2d 878, 7 USPQ2d 1487 (Fed. Cir. 1988). Further, a third party does not have standing to challenge Office decisions made *ex parte*. See, e.g., Godtfredsen v. Banner, 503 F.Supp 642, 647, 207 USPQ 202, 207 (D.D.C. 1980), Syntex v. United States Patent and Trademark Office, 882 F.2d 1570, 1574-1575, 11 USPQ2d 1866, 1870 (Fed. Cir. 1989), Hitachi Metals Ltd. v. Quigg, 776 F.Supp 3, 20 USPQ2d 1920 (Fed. Cir. 1989). There is nothing in the patent statutes which gives rise to a right in nonapplicants to object to the way in which patent applications of others are treated by the Patent and Trademark Office. A third party has no right to intervene in a particular patent application. Animal Defense Fund v. Quigg, 932 F.2d 920, 930, 18 USPQ2d 1677, 1685 (Fed. Cir. 1991); Hallmark Cards, Inc. v. Lehman, 959 F. Supp. 539, 42 USPQ2d 1134 (D.D.C. 1997). Accordingly to the extent hat petitioner may seek to invoke 37 CFR 1.183, that petition is dismissed.

A courtesy copy of this decision is being mailed to counsel who filed this petition on behalf of University. The USPTO will not undertake dual correspondence.

Third party and its representative are placed on notice that the Office considers the filing of a petition or other paper on behalf of a party having no standing in an application, and not otherwise authorized by the rules of practice, to be a petition or paper presented for an improper purpose (37 CFR 10.18). For example, the filing of a paper on behalf of a party in situations not authorized by the rules of practice delays the examination and processing of applications, which may cause harm to the general public if it results in the Office missing any one of the examination time frames specified in 35 U.S.C. §§ 154(b)(1)(A) or 154(b)(1)(B). Therefore, the Office may refer any further third party petitions in this or any other application to the Office of Enrollment and Discipline for appropriate action. See "Third Party Attempts to Protest or Otherwise Oppose the Grant of a Published Application," 1269 *Off. Gaz. Pat. Office* 179 (April 22, 2003)

Telephone inquiries related to this decision may be addressed to the undersigned at (5710 272-3217.

Brian Hearn
Petitions Examiner

cc:
Jennifer McCallum [for Third Party Petitioner]
The McCallum Law Firm LLC
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#3

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24 APR 2003

Li-Hsien Rin Laures
HYSEQ, Inc.
670 Almanor Avenue
Sunnyvale, California 94085

In re Application of	:	
BOYLE et al.	:	
Application No.: 10/311,822	:	DECISION ON PETITION
PCT No.: PCT/US01/02614	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 25 January 2001	:	
Priority Date: 25 January 2000	:	
Attorney Docket No.: HYS-24CIP/US	:	
For: METHODS AND MATERIALS RELATING TO CARCINOEMBRYONIC ANTIGEN-LIKE (CEA-LIKE) POLYPEPTIDES AND POLYNUCLEOTIDES		

The petition to revive under 37 CFR 1.137(b) filed 17 December 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have submitted the basic national fee of $710 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration along with the $130 surcharge for filing the oath or declaration after the thirty-month period is required.

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08 SEP 2005

#6

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In re Application of
BOYLE et al.
Application No.: 10/311,822
PCT No.: PCT/US01/02614
Int. Filing Date: 25 January 2001
Priority Date: 25 January 2000
Attorney Docket No.: HYS-24CIP/US
For: METHODS AND MATERIALS RELATING TO CARCINOEMBRYONIC ANTIGEN-LIKE (CEA-LIKE) POLYPEPTIDES AND POLYNUCLEOTIDES

DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicants' "Response to Notification of Abandonment," which is being treated as a petition to withdraw a holding of abandonment under 37 CFR 1.181 filed in the Patent and Trademark Office (PTO) on 24 February 2004. No petition fee is required.

BACKGROUND

On 25 January 2001, applicants filed international application no. PCT/US01/02614 which claimed a priority date of 25 January 2000. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 25 July 2002.

On 17 December 2002, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia,: the basic national fee; a copy of the international application; and a petition to revive under 37 CFR 1.137(b). In a decision dated 24 April 2003, applicants' petition to revive under 37 CFR 1.137(b) was granted.

On 19 May 2003, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 05 February 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment indicating that the application was abandoned for failure to respond to the Notification of Missing Requirements mailed 19 May 2003.

On 24 February 2004, applicants filed the present petition requesting, in effect, that the holding of abandonment in the case be withdrawn on the grounds that applicants filed a response on 18 July 2003. The petition was accompanied by: a copy of a communication regarding submission of the declaration and sequence listing under 37 CFR 1.821(f); a copy of all materials allegedly filed on 18 July 2003; and a copy of the preliminary amendment filed on 18 July 2003.

DISCUSSION

A review of the application file reveals that the original declaration allegedly filed 18 July 2003 under 37 CFR 1.8 is not located therein.

37 CFR 1.8 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 Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> > (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
> > (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
> > (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission.

The evidence filed with the petition is convincing that a response including a declaration and the sequence listing were filed with a certificate of mailing dated 18 July 2003. The response filed 18 July 2003 was timely to the Notification of Missing Requirements mailed 19 May 2003. Additionally, applicants have: (1) informed the Office of the previous mailing of the correspondence promptly after becoming aware that the Office did not receive the items mailed 18 July 2003, (2) supplied copies of the previously mailed correspondence; and (3) Renee Polizotto attests that, "[o]n July 18, 2003, Applicants responded to the Notification of Missing Requirements." Thus, it is considered appropriate to withdraw the holding of abandonment.

Accordingly, it is considered appropriate to withdraw the holding of abandonment.

CONCLUSION

As construed above, applicants' petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

The Notification of Abandonment mailed on 05 February 2004 is hereby **VACATED**.

Deposit Account No. 50-1169 has been charged a $130.00 surcharge under 37 CFR 1.492(h) for supplying an oath or declaration later than 30 months from the earliest claim priority date.

The application has an international filing date of 25 January 2001 under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **24 February 2004**.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

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#3

28 APR 2003

HYSEQ, Inc.
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In re Application of BOYLE et al. Serial No.: 10/311,823 PCT No.: PCT/US01/03651 Int. Filing Date: 02 February 2001 Priority Date: 03 February 2000 Attorney's Docket No.: HYS-17CIP/US For: METHODS AND MATERIALS RELATING TO NEUROTRIMIN-LIKE POLYPEPTIDES AND POLY-NUCLEOTIDES	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 17 December 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $355 has been paid. The required petition fee of $640 has also been paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing including issuance of a Notification of Missing Requirements indicating that an oath or declaration executed by the inventors and $130 surcharge for filing the oath or declaration after the thirty month period is required.

Cynthia M. Kratz

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25 APR 2003

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#3

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In re Application of: KUO, Chiauyun, et al. U.S. Application No.: 10/311,824 PCT No.: PCT/US01/02611 International Filing Date: 25 January 2001 Priority Date: 25 January 2000 Attorney's Docket No.: HYS-22CIP/US For: METHODS AND MATERIALS RELATING TO PREADIPOCYTE FACTOR-1-LIKE (PREF-1-LIKE) POLYPEPTIDES AND POLYNUCLEOTIDES	DECISION ON PETITION TO REVIVE ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 17 December 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

Applicants have now submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the issuance of a Notification Of Missing Requirements requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date.

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24 FEB 2003

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In re Application of Boyle et al. Application No. 10/311,826 PCT No.: PCT/US00/35306 Int. Filing Date: 22 December 2000 Priority Date: 23 December 1999 Atty. Docket No.: HYS-15CIP/US For: Methods And Materials Relating To Novel Von Willebrand/Thrombospondin-Like Polypeptides And...	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This is in response to the petition under 37 CFR 1.137(b) filed on 17 December 2002.

BACKGROUND

This international application was filed on 22 December 2000 and claimed earliest priority of an application filed on 23 December 1999. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 23 June 2002. This international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

On 17 December 2002, applicants filed the instant petition.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the required reply in the form of the basic national fee accompanied the petition.

Regarding requirement (2), the petition fee accompanied the petition.

Regarding requirement (3), the petition includes an appropriate statement.

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an executed oath or declaration of the inventors and a surcharge under 37 CFR 1.492(e).

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30 JAN 2003

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In re Application of HYSEQ, INC. Application No.: 10/311,827 PCT No.: PCT/US00/35061 Int. Filing Date: 22 December 2000 Priority Date: 23 December 1999 Attorney Docket No.: HYS-20CIP/US For: METHODS AND MATERIALS RELATING TO PROTHROMBINASE-LIKE POLYPEPTIDES AND POLYNUCLEOTIDES	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 17 December 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the applicant has submitted the basic national fee of $710.00 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National Stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration and payment of the applicable surcharge is required.

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04 NOV 2003

#6

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In re Application of BOYLE et al	:	
U.S. Application No.: 10/311,828	:	
Int. Application No.: PCT/US01/02457	:	
Int. Filing Date: 25 January 2001	:	DECISION
Priority Date: 25 January 2000	:	
Attorney Docket No.: HYS-18CIP/US	:	
For: METHODS AND MATERIALS RELATING TO TRANSFORMING GROWTH FACTOR ALPHA-LIKE POLYPEPTIDES AND POLYNUCLEOTIDES	:	

This is in response to applicant's "Petition for Filing When an Inventor is Uncooperative Under 37 CFR 1.47(a)" filed 02 October 2003.

BACKGROUND

On 25 January 2001, applicant filed international application PCT/US01/02457, which claimed priority of an earlier United States application filed 25 January 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 16 August 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 25 July 2002.

International application PCT/US01/02457 became abandoned as to the United States at midnight on 25 July 2002 for failure to pay the basic national fee.

On 17 December 2002, applicant filed a petition under 37 CFR 1.137(b).

On 27 March 2003, this Office mailed a decision granting the 17 December 2002 petition.

Copied from 10475513 on 07/28/2005

On 10 April 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 02 October 2003, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted declarations signed by the available inventors, each on his/her own behalf and on behalf of the nonsigning inventor Kody Nguyen.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

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The present petition states that inventor Kody Nguyen refuses to sign the application papers. However, petitioner has not established that a bona fide attempt was made to present a complete copy of the application papers (including specification, claims, drawings, and oath/declaration) to Nguyen for signature. Specifically, although the petition states that declarations and assignment documents were sent to Nguyen, the petition does not set forth that the specification, claims, and drawings were ever presented to Nguyen. Furthermore, petitioner has not furnished an affidavit signed by the person with firsthand knowledge of the correspondence with Nguyen. Additionally, petitioner has not adequately demonstrated that Nguyen refuses to sign. Specifically, petitioner has not provided an affidavit signed by the person with firsthand knowledge of Nguyen's purported refusal to sign. Therefore, it would not be reasonable to conclude at the present time that Nguyen refuses to join in the application.

With regard to item (3) above, applicant has provided the requisite petition fee.

With regard to item (4) above, the petition states the last known address of the nonsigning inventor.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required. Extensions of time are available under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Tung
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27 MAR 2003

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In re Application of BOYLE et al	:	
U.S. Application No.: 10/311,828	:	
Int. Application No.: PCT/US01/02457	:	DECISION ON PETITION
Int. Filing Date: 25 January 2001	:	
Priority Date: 25 January 2000	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: HYS-18CIP/US	:	
For: METHODS AND MATERIALS RELATING TO TRANSFORMING GROWTH FACTOR ALPHA-LIKE POLYPEPTIDES AND POLYNUCLEOTIDES	:	

This is in response to applicant's "Petition Under 37 C.F.R. 1.137(b) for Revival of an Unintentionally Abandoned International Patent Application Designating the U.S." filed 17 December 2002.

BACKGROUND

On 25 January 2001, applicant filed international application PCT/US01/02457, which claimed priority of an earlier United States application filed 25 January 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 16 August 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 25 July 2002.

International application PCT/US01/02457 became abandoned as to the United States at midnight on 25 July 2002 for failure to pay the basic national fee.

On 17 December 2002, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

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DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be submitted.

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02 JUN 2003

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In re Application of KUO et al. Application No.: 10/311,829 PCT No.: PCT/US01/02613 Int. Filing Date: 25 January 2001 Priority Date: 25 January 2000 Attorney Docket No.: HYS-21CIP/US For: METHODS AND MATERIAL RELATING TO CD84-LIKE POLYPEPTIDES AND POLYNUCLEOTIDES	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This decision is in response to applicant's "PETITION UNDER 37 C.F.R. 1.137(b) FOR REVIVAL OF AN UNINTENTIONALLY ABANDONED INTERNATIONAL APPLICATION DESIGNATING THE U.S." filed 17 December 2002.

BACKGROUND

On 25 January 2001, applicant filed international application PCT/US01/02613, which designated the United States and claimed a priority date of 25 January 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 02 August 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 16 August 2001, which was within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 25 July 2002.

On 17 December 2002, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, an assertion of small entity status, and the instant "PETITION UNDER 37 C.F.R. 1.137(b) FOR REVIVAL OF AN UNINTENTIONALLY ABANDONED INTERNATIONAL APPLICATION DESIGNATING THE U.S.".

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the

reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee for a small entity on 17 December 2002.

As to item (2), applicant submitted the petition fee for a small entity on 17 December 2002.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date are required.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
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In re Application of MIZE, Nancy K. et al. Application No.: 10/311,830 PCT Application No.: PCT/US01/02455 International Filing Date: 25 January 2001 Priority Date: 25 January 2000 Attorney Docket No.: HYS-7CIP/US For: METHODS AND MATERIALS RELATING TO NOVEL GROWTH REGULATORY-LIKE POLYPEPTIDES AND POLYNUCLEOTIDES	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicant's "Petition Under 37 C.F.R. 1.137(b) For Revival of an Unintentionally Abandoned International Application For Patent Designating the US" filed in the United States Patent and Trademark Office on 17 December 2002 is **DISMISSED**.

BACKGROUND

On 25 January 2001, applicant filed international application PCT/US01/02455. A timely demand for international preliminary examination was filed on 16 August 2001. The deadline for entry into the national stage in the United States was thirty months from the priority date, that is 25 July 2002.

On 17 December 2002, applicant filed a Petition Under 37 C.F.R. 1.137(b) For Revival of an Unintentionally Abandoned International Application For Patent Designating the US, accompanied by the basic national fee.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfies the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required as application was filed on on or after 08 June 1995. Applicant has submitted the basic national fee. However, deposit account no. 50-1169 had insufficient funds to satisfy the petition fee.

CONCLUSION

For the reasons listed above, the petition to revive the application abandoned under 37 CFR 1.137(b) is **DISMISSED** as to the National Stage in the United States of America.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)."

The application remains **ABANDONED**.

Any further correspondence with respect to this matter should be addressed to the Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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10 JUL 2003

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In re Application of MIZE, Nancy K. et al. Application No.: 10/311,830 PCT Application No.: PCT/US01/02455 International Filing Date: 25 January 2001 Priority Date: 25 January 2000 Attorney Docket No.: HYS-7CIP/US For: METHODS AND MATERIALS RELATING TO NOVEL GROWTH REGULATORY-LIKE POLYPEPTIDES AND POLYNUCLEOTIDES	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This decision is in response to applicant's "Renewed Petition Under 37 C.F.R. 1.137(b) For Revival of an Unintentionally Abandoned International Application For Patent Designating the U.S." filed in the United States Patent and Trademark Office on 28 March 2003.

BACKGROUND

On 25 January 2001, applicant filed international application PCT/US01/02455. A timely demand for international preliminary examination was filed on 16 August 2001. The deadline for entry into the national stage in the United States was thirty months from the priority date, that is 25 July 2002.

On 17 December 2002, applicant filed "Petition Under 37 C.F.R. 1.137(b) For Revival of an Unintentionally Abandoned International Application For Patent Designating the US," accompanied by the basic national fee.

On 28 January 2003, the Office mailed Decision On Petition, dismissing applicant's petition without prejudice.

On 28 March 2003, applicant submitted the instant renewed petition.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must

be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Items (1), (2) and (4) were previously satisfied. Item (3) has now been satisfied.

CONCLUSION

For the reasons listed above, the petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision, including the mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration are required.

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1455 Pennsylvania Avenue NW
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In re Application of NIECESTRO Application No.: 10/311,833 PCT No.: PCT/US01/19420 Int. Filing Date: 19 June 2001 Priority Date: 19 June 2000 Attorney's Docket No.: 109536-123US1 For: NOVEL METHODS USING PYRIDINE DERIVATIVES	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a) and 1.497(d)

This is a decision on renewed petition under 37 CFR 1.47(a), filed 21 October 2007 to permit petitioner (applicant) to file the above-captioned application on behalf of the non-signing inventor Robert M. Niecestro and petition under 37 CFR 1.497(d) to add inventors Jay Barth and John R. Ieni. The request for extension of time is granted.

BACKGROUND

On 18 March 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS indicating that the oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b) must be furnished within two months from the mail date of the notice or the application would be abandoned. Extensions of time were available.

On 19 September 2005, petitioner filed the petition requesting that the above-identified application be accepted under the provisions of 37 CFR 1.47(b) along with a four month extension of time. The petition was accompanied by executed declarations and a copy of an executed Employee Agreement.

On 21 August 2006, a decision was mailed dismissing the petition. indicating, *inter alia*, that petitioner had not provided a declaration, in compliance with 37 CFR 1.497(a) and (b), and executed on behalf of the inventor by the 37 CFR 1.47(b) petitioner.

On 20 March 2007, applicant filed a renewed petition under 37 CFR 1.47(b) and 1.497(d) along with a request for a five month extension of time. Petitioner filed a Request to Consider Paper Previously Filed via facsimile on 25 October 2007 along with a copy of the petition papers filed on 20 March 2007, a Customer Copy of the Express Mail label and an itemized USPTO postcard receipt date-stamped 20 March 2007.

DISCUSSION

A review of application file reveals that the petition filed on 20 March 2007 is not found

among the application papers. Pursuant to 37 CFR 1.10(e)[1], a review of the petition papers, transmittal letter and Express Mail customer copy, the copy of the petition filed on 25 October 2007 will be accepted in lieu of the petition filed on 20 March 2007.

The evidence submitted by applicant in the petition includes, *inter alia*, (1) a copy of the Customer Copy of the USPS Express Mail label bearing "Express Mail" label number EV956472589US and (2) a copy of an "Express Mail Certification under 37 CFR 1.10 indicating that Express Mail no. EV956472589US was mailed on 20 March 2007. Applicant, in effect, requests that the apparent copy of the petition be accepted as a replacement for the missing original papers with a receipt date of 20 March 2007 being accorded thereto based on the alleged deposit of the originals with the U.S. Postal Service on 20 March 2007 using the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS). Additionally, a review of the USPTO date-stamped, itemized postcard receipt indicates, *inter alia*, that a Certificate of Mailing by Express Mail No. EV956472589US, transmittal letter, petition under 37 CFR 1.47(b) and petition under 37 CFR 1.497(d), and statement under 37 CFR 3.73 were deposited with the USPTO on 20 March 2007.

Thus, the evidence of record provided in accordance with 37 CFR 1.10(e) is sufficient to establish with reasonable certainty that the petition papers were deposited with the United States Postal Service as an "Express Mail" mailing on 20 March 2007. The indication of the same "Express Mail" label number appearing on the transmittal letter in the "Express Mail" certification and the copy of the customer copy "Express Mail" label together is proof that the petition papers were mailed via Express Mail on 20 March 2007. The transmittal letter bears Express Mail number "EV956472589US" sufficiently ties the petitions papers and the Express Mail mailing together. Accordingly, it is appropriate to accept the copy of the petition papers as a replacement for the missing original petition papers with a deposit date of 20 March 2007.

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[1]37 CFR 1.10(e) states:

Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS, but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence, and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

Petition under 37 CFR 1.497(d)

Where the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and 37 CFR 1.497(d) names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor that any error in inventorship occurred without deceptive intention on his or her part; (2) the fee set forth in § 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee(s).[2]

Petitioner provided statements, signed by Jay Barth and John R. Ieni, stating that any error in inventorship in the international application occurred without deceptive intent. These statements satisfy item (1) of 37 CFR 1.497(d). The processing fee of $130.00 has been paid, satisfying Item (2) above. With regard to Item (3), the written consent of the assignee, consenting to the addition of Jay Barth and John R. Ieni as inventors in this application, was submitted satisfying Item (3). Accordingly, Petitioner has met all of the requirements to add Jay Barth and John R. Ieni as co-inventors in the above-identified international application. The petition under 37 CFR 1.497(d) is hereby granted.

Petition Under 37 CFR 1.47(a)

With the granting of the petition under 37 CFR 1.497(d), the petition under 37 CFR 1.47(b) will be treated as a petition under 37 CFR 1.47(a).

A petition under 37 CFR 1.47(a) must be accompanied by (1) the requisite petition fee, (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor.

Petitioner previously satisfied Item (1), (2), and (3). Petitioner submitted a declaration, identifying the nonsigning inventor Robert Niecestro, Jay Barth and John R. Ieni, which was executed by Jay Barth and John R. Ieni on behalf of the nonsigning inventor. The declaration meets the requirements of 37 CFR 1.497(a) and (b) and is acceptable. The petition under 37 CFR 1.47(a) is hereby granted.

CONCLUSION

For the reasons discussed above, the submission under 37 CFR 1.497(d) to add Jay Barth and John R. Ieni as inventors is hereby **GRANTED**. The petition under 37 CFR 1.47(a) is

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[2] 37 CFR 1.497(d) states, in part: If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:

> (1) A statement from each person being added as an inventor . . . that any error in inventorship in the international application occurred without deceptive intention on his or her part;
>
> (2) The processing fee set forth in § 1.17(I); and
>
> (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.

GRANTED.

The U.S. Designated/Elected Office has accepted the application as a 37 CFR 1.47(a) application using the declarations filed 19 September 2005. The application has an international filing date of 19 June 2001 under 35 U.S.C. 363, and a date of 19 September 2005 under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his respective last known address of record. Also, a notice of the filing of this application will be published in the Official Gazette.

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In re Application of NIECESTRO Application No.: 10/311,833 PCT No.: PCT/US01/19420 Int. Filing Date: 19 June 2001 Priority Date: 19 June 2000 Attorney's Docket No.: 109536-123US1 For: NOVEL METHODS USING PYRIDINE DERIVATIVES	DECISION ON PETITION UNDER 37 CFR 1.47(b)

This is a decision on petition under 37 CFR 1.47(b), filed 19 September 2005 to permit petitioner (applicant) to file the above-captioned application on behalf of the non-signing inventor Robert M. Niecestro. Petitioner requests a four month extension of time, which is granted.

BACKGROUND

On 19 June 2001, applicant filed international application No. PCT/US01/19420 which claimed a priority date of 19 June 2000, and which designated the United States.

On 19 December 2002, within 30 months from the priority date, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*,: basic national filing fee.

On 18 March 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS indicating that the oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b) must be furnished within two months from the mail date of the notice or the application would be abandoned. Extensions of time were available.

On 23 March 200~~6~~5, petitioner filed the instant petition requesting that the above-identified application be accepted under the provisions of 37 CFR 1.47(b). The petition was accompanied by an executed declaration and a copy of an executed Employee Agreement.

DISCUSSION

It is unclear from the papers presented whether applicant is requesting consideration under 37 CFR 1.47(a) or (b). The declaration submitted with the petition named inventor Robert M. Niecestro and also named John Ieni and Jay Barth, who were not identified in the published international application. If Mr. Niecestro is not a sole inventor, then a petition under 37 CFR 1.47(a) is required. A petition under 37 CFR 1.47(a) must be accompanied by (1) the requisite petition fee, (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing

inventor. If Mr. Niecestro is a sole inventor and unwilling or unavailable to sign the application papers, then a petition under 37 CFR 1.47(b) is required. A petition under 37 CFR 1.47(b) must be accompanied by (1) the requisite petition fee, (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

In either situation, Petitioner has satisfied Item (1) with payment of the requisite petition fee and Item (3) with a statement of the last known address of the non-signing inventor.

With regard to Item (2), petitioner has provided proof that the non-signing inventor refuses to sign the application. Here, the inventor was presented with a copy of the application papers. On 22 July 2005, in a telephone conversation with counsel for Petitioner, Dr. Niecestro "emphatically stated that he would never sign the Declaration and Power of Attorney or the Assignment". Thus, this sufficient evidence to conclude that the inventor refuses to sign the application. Item (2) is satisfied.

However, with regard to Item (4), petitioner has not provided a declaration executed on behalf of the inventor by the 37 CFR 1.47(b) petitioner. The declaration does not fulfill the requirements of 37 CFR 1.497(a) and (b) as it identifies and is executed by John Ieni as first inventor and Jay Barth, as second inventor. A review of the published international application PCT/US01/19420 reveals that Robert M. Niecestro is the sole inventor. Applicant did not provide an Notification of the Recording of A Change (Form PCT/IB/306) issued by the International Bureau adding John Ieni and Jay Barth as a co-inventors under PCT Rule 92*bis*.

The declaration submitted on 19 September 2005 erroneously identifies John Ieni and Jay Barth as a co-inventors with Robert Niecestro and thus is not in compliance with 37 CFR 1.497(a) and (b). Since there is no indication that John Ieni and Jay Barth were accepted by the International Bureau under PCT Rule 92*bis* as a co-inventors, it is improper to accept the declaration identifying him as a co-inventor. The declaration executed by John Ieni and Jay Barth as a joint inventors of Robert Niecestro in the above referenced application is unacceptable and not in compliance with 37 CFR 1.497(a) and (b). A new declaration, in compliance with 37 CFR 1.497(a) and (b), is required. Thus, Item (4) is not satisfied.

Regarding Item (5) in a petition under 37 CFR 1.47(b), Section 409.03(f) of the MPEP, **Proof of Proprietary Interest**, states, in part:

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that
>
> (A) the invention has been assigned to the applicant, or
> (B) the inventor has agreed in writing to assign the invention to the applicant, or
> (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.
>
> If the application has been assigned, a copy of the assignment (in the English Language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324)....
>
> When an inventor has agreed in writing to assign an invention described in an

application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by a statement of facts by someone with first hand knowledge of the circumstances in which those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by the affidavit or declaration of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.

If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter.

A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

Here, petitioner is attempting to prove that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the subject matter to justify filing the application. An assignment signed by the inventor was not submitted and attached to the petition to prove this interest.

While Petitioner has provided an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment, a firsthand knowledge statement that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant was not provided.

Where there is no written agreement to assign or the invention has not been assigned, petitioner must demonstrate a proprietary interest by an appropriate legal memorandum. No such memorandum accompanied the petition. As stated above and reiterated here, 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 is required. 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 the 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. A statement under 37 CFR 3.73(b) by the assignee must also be submitted. Item (5) is not satisfied.

As for Item (6), irreparable damage may be established by a showing (a statement) that a filing date is necessary to preserve the rights of the party and to prevent irreparable damage." No

such statement has been presented. Thus, item (6) is not yet satisfied.

Accordingly, items (4), (5) and (6) above have not been satisfied and the petition under 37 CFR 1.47(b) must be dismissed.

CONCLUSION

The petition under 37 CFR 1.47(b) is **DISMISSED WITHOUT PREJUDICE**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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In re Application of NIECESTRO Application No.: 10/311,833 PCT No.: PCT/US01/19420 Int. Filing Date: 19 June 2001 Priority Date: 19 June 2000 Attorney's Docket No.: 109536-123US1 For: NOVEL METHODS USING PYRIDINE DERIVATIVES	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a) and 1.497(d)

This is a decision on renewed petition under 37 CFR 1.47(a), filed 21 October 2007 to permit petitioner (applicant) to file the above-captioned application on behalf of the non-signing inventor Robert M. Niecestro and petition under 37 CFR 1.497(d) to add inventors Jay Barth and John R. Ieni. The request for extension of time is granted.

BACKGROUND

On 18 March 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS indicating that the oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b) must be furnished within two months from the mail date of the notice or the application would be abandoned. Extensions of time were available.

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On 20 March 2007, applicant filed a renewed petition under 37 CFR 1.47(b) and 1.497(d) along with a request for a five month extension of time. Petitioner filed a Request to Consider Paper Previously Filed via facsimile on 25 October 2007 along with a copy of the petition papers filed on 20 March 2007, a Customer Copy of the Express Mail label and an itemized USPTO postcard receipt date-stamped 20 March 2007.

DISCUSSION

A review of application file reveals that the petition filed on 20 March 2007 is not found

among the application papers. Pursuant to 37 CFR 1.10(e)[1], a review of the petition papers, transmittal letter and Express Mail customer copy, the copy of the petition filed on 25 October 2007 will be accepted in lieu of the petition filed on 20 March 2007.

The evidence submitted by applicant in the petition includes, *inter alia*, (1) a copy of the Customer Copy of the USPS Express Mail label bearing "Express Mail" label number EV956472589US and (2) a copy of an "Express Mail Certification under 37 CFR 1.10 indicating that Express Mail no. EV956472589US was mailed on 20 March 2007. Applicant, in effect, requests that the apparent copy of the petition be accepted as a replacement for the missing original papers with a receipt date of 20 March 2007 being accorded thereto based on the alleged deposit of the originals with the U.S. Postal Service on 20 March 2007 using the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS). Additionally, a review of the USPTO date-stamped, itemized postcard receipt indicates, *inter alia*, that a Certificate of Mailing by Express Mail No. EV956472589US, transmittal letter, petition under 37 CFR 1.47(b) and petition under 37 CFR 1.497(d), and statement under 37 CFR 3.73 were deposited with the USPTO on 20 March 2007.

Thus, the evidence of record provided in accordance with 37 CFR 1.10(e) is sufficient to establish with reasonable certainty that the petition papers were deposited with the United States Postal Service as an "Express Mail" mailing on 20 March 2007. The indication of the same "Express Mail" label number appearing on the transmittal letter in the "Express Mail" certification and the copy of the customer copy "Express Mail" label together is proof that the petition papers were mailed via Express Mail on 20 March 2007. The transmittal letter bears Express Mail number "EV956472589US" sufficiently ties the petitions papers and the Express Mail mailing together. Accordingly, it is appropriate to accept the copy of the petition papers as a replacement for the missing original petition papers with a deposit date of 20 March 2007.

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Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS, but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence, and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

Petition under 37 CFR 1.497(d)

Where the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and 37 CFR 1.497(d) names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor that any error in inventorship occurred without deceptive intention on his or her part; (2) the fee set forth in § 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee(s).[2]

Petitioner provided statements, signed by Jay Barth and John R. Ieni, stating that any error in inventorship in the international application occurred without deceptive intent. These statements satisfy item (1) of 37 CFR 1.497(d). The processing fee of $130.00 has been paid, satisfying Item (2) above. With regard to Item (3), the written consent of the assignee, consenting to the addition of Jay Barth and John R. Ieni as inventors in this application, was submitted satisfying Item (3). Accordingly, Petitioner has met all of the requirements to add Jay Barth and John R. Ieni as co-inventors in the above-identified international application. The petition under 37 CFR 1.497(d) is hereby granted.

Petition Under 37 CFR 1.47(a)

With the granting of the petition under 37 CFR 1.497(d), the petition under 37 CFR 1.47(b) will be treated as a petition under 37 CFR 1.47(a).

A petition under 37 CFR 1.47(a) must be accompanied by (1) the requisite petition fee, (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor.

Petitioner previously satisfied Item (1), (2), and (3). Petitioner submitted a declaration, identifying the nonsigning inventor Robert Niecestro, Jay Barth and John R. Ieni, which was executed by Jay Barth and John R. Ieni on behalf of the nonsigning inventor. The declaration meets the requirements of 37 CFR 1.497(a) and (b) and is acceptable. The petition under 37 CFR 1.47(a) is hereby granted.

CONCLUSION

For the reasons discussed above, the submission under 37 CFR 1.497(d) to add Jay Barth and John R. Ieni as inventors is hereby **GRANTED**. The petition under 37 CFR 1.47(a) is

---

[2] 37 CFR 1.497(d) states, in part: If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:

> (1) A statement from each person being added as an inventor . . . that any error in inventorship in the international application occurred without deceptive intention on his or her part;
>
> (2) The processing fee set forth in § 1.17(I); and
>
> (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.

GRANTED.

The U.S. Designated/Elected Office has accepted the application as a 37 CFR 1.47(a) application using the declarations filed 19 September 2005. The application has an international filing date of 19 June 2001 under 35 U.S.C. 363, and a date of 19 September 2005 under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his respective last known address of record. Also, a notice of the filing of this application will be published in the Official Gazette.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Tel: 571-272-3286
Fax: 571-273-0459

cc: Elizabeth A. Hanley, Esq.
Lahvive & Cockfield, LLP
One Post Office Square
Boston, MA 02109-2127

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2 2 FEB 2008

Robert Niecestro
PO Box 604
120 Pine Crest Lake
Pocono Pines, PA 18350

In re Application of NIECESTRO Application No.: 10/311,833 PCT No.: PCT/US01/19420 Int. Filing Date: 19 June 2001 Priority Date: 19 June 2000 Attorney's Docket No.: 109536-123US1 For: NOVEL METHODS USING PYRIDINE DERIVATIVES	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

Dear Mr. Niecestro:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Telephone: (571) 272-3286

Hale and Dorr
1455 Pennsylvania Avenue NW
Washington DC 20004

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OCCHIUTI ROHLICEK & TSAO, LLP
10 FAWCETT STREET
CAMBRIDGE, MA 02138

Mail Date: 07/23/2010

Applicant	: Robert Clancy	: DECISION ON REQUEST FOR
Patent Number	: 7655248	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/311,837	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1809** 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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YOUNG & THOMPSON
745 South 23rd Street, 2nd Floor
Arlington, VA 22202

In re Application of
GAUDRY, Laurent *et al*
U.S. Application No.: 10/311,865
PCT No.: PCT/FR01/01920
Int. Filing Date: 19 June 2001
Priority Date: 20 June 2000
Attorney Docket No.: 0510-1054
For: QUICK BINDER FOR SELF-COMPACTING CONCRETE, USE AND APPLICATIONS OF SAME

DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' "Petition under 37 C.F.R. §1.47(a)" filed on 14 July 2003.

BACKGROUND

On 14 April 2003, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 indicating that an oath/declaration in compliance with 37 CFR 1.497(a) and (b) must be provided. Applicants were given two months to respond with extensions of time available.

On 14 July 2003, applicants submitted the instant petition which was accompanied by, *inter alia*, a one-month extension request; a declaration signed by two of the three co-inventors; copies of two letters mailed to the nonsigning co-inventor; copies of postal receipts; and authorization to charge the extension fee of $110.00 and $130.00 petition fee to counsel's Deposit Account No. 25-0120.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor refuses to execute the application; (3) a statement of the last known address of the missing joint inventor; (4) and an oath or declaration executed by the signing joint inventor on his behalf and on behalf of the non-signing joint inventor. Applicants failed to satisfy item (2).

Concerning item (1), the $130.00 petition fee has been charged to Deposit Account No. 25-0120 as authorized.

With regard to item (3), applicants satisfy this requirement by listing the last known address of the nonsigning co-inventor, Ms. Catherine Revais, as:

08/05/2003 SNAJARRO 00000015 250120 10311865

01 FC:1460 130.00 DA
02 FC:1251 110.00 DA

20, rue de la Grimaudière
38790 Diemoz, France

Regarding item (4), applicants included a Declaration signed by two of the three co-inventors. All the inventors' names, residences, post office addresses and citizenship are typed on the declaration. This declaration satisfies the requirements of section 409.03(a) of the Manual of Patent Examining Procedure (MPEP) and is in compliance with 37 CFR 1.497(a) and (b). Thus, item (4) has been satisfied.

Concerning item (2), applicants declare that the nonsigning co-inventor "has refused to execute the application papers." To support this claim, applicants maintain that several documents including a complete copy of the above-captioned application were sent to the last known address of Ms. Revais on 27 May 2003. Ms. Revais apparently failed to claim this mail as the postal receipt is written "not claimed return to sender."

A copy of the 27 May 2003 letter and post return receipt with accompanying English translations were included in the instant petition. Applicants also included a letter from Bruno Touzo, Head of the Mineralogy Department, dated 12 June 2003 confirming that they have not received an answer to the 27 May 2003 documents.

Section 409.03(d) of the MPEP explains what is required to prove a refusal by an inventor and states, in 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 . . .
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted.

In this case, applicants tried to present a copy of the application papers to the nonsigning inventor for signature once on 27 May 2003, but the package was returned to sender. There is no further evidence presented that applicants have attempted to contact Ms. Revais further by telephone, or through e-mail to confirm that she refuses

to cooperate in the above-captioned application, or even verify that Ms. Revais still resides at the address where the documents were sent. The fact that a package was not claimed and returned to sender is insufficient alone to prove a refusal by a co-inventor. This is the only fact presented in the instant petition. Therefore, item (2) of 37 CFR 1.47(a) is not yet satisfied.

Accordingly, all the requirements of 37 CFR 1.47(a) have been satisfied.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson

James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457

12 NOV 2003

#8

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YOUNG & THOMPSON
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Arlington, VA 22202

In re Application of GAUDRY, Laurent *et al* U.S. Application No.: 10/311,865 PCT No.: PCT/FR01/01920 Int. Filing Date: 19 June 2001 Priority Date: 20 June 2000 Attorney Docket No.: 0510-1054 For: QUICK BINDER FOR SELF-COMPACTING CONCRETE, USE AND APPLICATIONS OF SAME	**DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)**

This is a decision on applicants' "Renewed Petition under 37 C.F.R. §1.47(a)" filed on 30 October 2003.

BACKGROUND

On 30 July 2003, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants failed to satisfy item (2) of 37 CFR 1.47(a). Applicants were given two months to respond with extensions of time available.

On 30 October 2003, applicants filed the instant renewed petition which was accompanied by, *inter alia*, a one-month extension of time and fee; a declaration by Dominique Guinot ("Decl."); copies of several registered mail receipts; and a copy of an internet search and English translation for the nonsigning joint inventor, Ms. Revais.

DISCUSSION

The 37 CFR 1.47(a) applicant failed to satisfy item (2) of 37 CFR 1.47(a) with the original petition filed 20 June 2003. Specifically, the 37 CFR 1.47(a) applicant did not provide sufficient evidence to demonstrate that the nonsigning joint inventor refuses to sign the declaration, or is aware of the above-captioned application.

In the renewed petition, the 37 CFR 1.47(a) applicant submitted a declaration by Mr. Guinot, of Lafarge Aluminate Company dated 13 October 2003 who declares that the address of Ms. Revais had changed but that "despite the wrong address, the first registered mail has been duly received by Mrs. C. Revais. Decl. at ¶ 3. Mr. Guinot declares that "[a] recent research of Mrs. C. REVAIS address on internet has revealed that her address is still 10, allée de la Grimaudière - 38790 DIEMOZ. Id. at ¶ 4.

Mr. Guinot also stated that another registered mailing containing "the indicated

documents" were sent to Ms. Revais at the updated address on 09 September 2003 and that "Mrs. C. Revais has not claimed this mail and nothing was received from her." Id. at ¶ 5. In addition, Mr. Guidot claims that they "tried unsuccessfully to contact Mrs. C. REVAIS by phone several times, namely, on (29-30 September 2003) . . . but Mrs. C. REVAIS has not answered our calls. Id. at ¶ 6. The 37 CFR 1.47(a) applicant also included documentary evidence in the form of translated copies of postal receipts and a translated copy of an internet search in the renewed petition.

The evidence presented is sufficient to show that a diligent effort was made to contact the nonsigning joint inventor and meets the requirements of section 409.03(d) of the MPEP. Thus, item (2) of 37 CFR 1.47(a) is now satisfied.

The last known address of Ms. Revais required by item (3) of 37 CFR 1.47(a) has been updated from the address given in the initial petition.

Therefore, all the requirements of 37 CFR 1.47(a) are now complete.

CONCLUSION

Applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 19 June 2001 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 14 July 2003.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record and will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

12 NOV 2003

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Catherine Revais
10, allée de la Grimaudière
38790 DIEMOZ
France

In re Application of
GAUDRY, Laurent *et al*
U.S. Application No.: 10/311,865
PCT No.: PCT/FR01/01920
Int. Filing Date: 19 June 2001
Priority Date: 20 June 2000
Attorney Docket No.: 0510-1054
For: QUICK BINDER FOR SELF-COMPACTING CONCRETE, USE AND APPLICATIONS OF SAME

Ms. Revais:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

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Arlington, VA 22202

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 7/1/08

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/311872 Patent No: 2376197 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: OK

SPE

2611
Art Unit

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G E Ehrlich
Suite 207
2001 Jefferson Davis Highway
Arlington, VA 22202

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MAR 02 2005

OFFICE OF PETITIONS

In re Application of :
Ofer Yodfat, et al. :
Application No. 10/311,876 : DECISION ON PETITION
Filed: December 20, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 25239

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 7, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on December 20, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional applications was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Marianne Jenkins at (571) 272-3223.

This application is being referred to Technology Center Art Unit 3788 for appropriate action on the amendment filed September 7, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Frances Hicks

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Corrected Filing Receipt

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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	: Wolfgang Theimer	: DECISION ON REQUEST FOR
Patent Number	: 7616925	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/311,898	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **670** 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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M/S EVR 1-C-11
PLANO TX 75024

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OFFICE OF PETITIONS

In re Application of

Mikael Jan Are Winberg

Application No. 10/311,909

Filed: December 20, 2002

Attorney Docket No. P13634-US1

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 18, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper response to the final Office action mailed July 16, 2007. The final Office action set a shortened statutory period for reply of three months from its mailing date. A response was filed on September 17, 2007, but an Advisory Action mailed October 17, 2007, indicated that the response did not place the application in condition for allowance. Another amendment was filed December 14, 2007, with a request for an extension of time within the second month. An Advisory Action mailed January 11, 2008, advised that the response of December 14, 2007, failed to place the application in condition for allowance. No further responses were received within the allowable period and the application became abandoned on December 17, 2007. A Notice of Abandonment was mailed on February 6, 2008.

The Request for Continued Examination and amendment filed February 18, 2008, are noted.

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 $120.00 extension of time fee submitted with the petition on February 18, 2008, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application file is being forwarded to Technology Center 3600, GAU 3635 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GOTTLIEB RACKMAN & REISMAN PC
270 MADISON AVENUE
8TH FLOOR
NEW YORK NY 10016-0601

MAILED

FEB 02 2009

OFFICE OF PETITIONS

In re Application of	:	
Michael Berthon-Jones	:	
Application No. 10/311,920	:	DECISION GRANTING PETITION
Filed: December 18, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 3869-023	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 30, 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 January 19, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3771 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.*

04 JUN 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, LLP
1300 I STREET, NW
WASHINGTON DC 20005

In re Application of Per-Eric Stridsman Application No.: 10/311,926 PCT No.: PCT/SE01/01343 Int. Filing Date: 14 June 2001 Priority Date: 22 June 2000 Attorney Docket No.: 08806.0014 For: FLOOR BOARD WITH COUPLING MEANS	DECISION ON SECOND REQUEST

This is a decision on applicant's "Second Request for Corrected Official Filing Receipt" filed in the United States Patent and Trademark Office (USPTO) on 10 March 2004. The request is **GRANTED** for the following reasons.

On 14 June 2001, applicant filed international application No. PCT/SE01/01343, which claimed a priority date of 22 June 2000 and which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 27 December 2001.

On 17 January 2002, a Demand was filed with the International Preliminary Examining Authority electing the United States. As a result, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or on 22 December 2002.

On 20 December 2002, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee.

On 31 March 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration executed by the inventors and the $130 surcharge for filing the oath or declaration after the thirty month period was required.

On 21 May 2003, applicants filed an executed declaration along with the surcharge completing the filing requirements for international application entering National Stage in the U.S. under 35 U.S.C. 371.

On 09 June 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903) which indicated a date under 35 U.S.C. 371 of 27 May 2003. The USPTO mailed an official filing receipt which indicated a "filing date" of 27 May 2003.

On 10 March 2004, applicants filed a request to correct the filing receipt including a marked-up copy of the official filing receipt indicating a correction of the filing date and inclusion of the priority information.

DISCUSSION

On 10 March 2004, applicant filed the request to correct the filing receipt including a copy of the official filing receipt indicating the correction of the filing date from "05/27/2003" to "05/21/2003".

The date in the filing date portion on the filing receipt of a national stage application is the date upon which applicants complete the requirements under 35 U.S.C. 371(c). (See A. FILING DATE AS APPLICANT'S DATE OF INVENTION, MPEP §1895.01, page 1800-153).

A review of the application file indicates that the executed declaration and surcharge for filing the declaration after the thirty month period was filed on 21 May 2003 completing the requirements under 35 U.S.C. 371(c). The United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903) which indicated a date under 35 U.S.C. 371 of 27 May 2003, which is hereby VACATED.

Applicant claimed benefit of priority to Swedish application 0002342-4 filed on 22 June 2000 in the international application and in the declaration filed in the above referenced U.S. application. The inclusion of this foreign priority application (that is, the Swedish priority application 0002342-4 filed on 22 June 2000) should be reflected on the filing receipt. The new filing receipt will be issued indicating priority to Swedish application 0002342-4 filed on 22 June 2000.

CONCLUSION

Applicants' request for the issuance of a corrected filing receipt indicating a "Filing Date" of **21 May 2003** and including Swedish priority application 0002342-4 filed on 22 June 2000 is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for the preparation and mailing of a new Notification of Acceptance and corrected Filing Receipt in accordance with this decision and forwarded to Publications Branch in due course.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (703) 306-5467
Facsimile: (703) 308-6459

LAW OFFICES
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.
1300 I Street, NW
Washington, DC 20005

Telephone
(202) 408-4000

Facsimile
(202) 408-4400

FACSIMILE TRANSMITTAL

TO

Name: Cynthia (PCT Legal Department)
Firm: U.S. Patent and Trademark Office
Fax No.: (703) 308-6459
Phone No.: (703) 305-3257
Date: May 25, 2004
Subject: Application No. 10/311,926

FROM

Name: Naveen Modi
Phone No.: (202) 408-4065
Fax # Verified by: NM
 # Pages (incl. this): 5
Our File No.: 08806.0014

Confirmation Copy to Follow: N

Message:

As per our discussion, I am attaching a copy of the Second Request for Corrected Filing Receipt and attachments that we filed with the Patent Office on March 10, 2004 to obtain a Corrected Filing Receipt for the above-referenced application. Should you have any questions, please contact us.

We appreciate your assistance with this matter. Thanks.

RECEIVED
25 MAY 2004
Legal Staff
International Division

If there is a problem with this transmission, notify fax room at (202) 408-4174 or the sender at the number above.

This facsimile is intended only for the individual to whom it is addressed and may contain information that is privileged, confidential, or exempt from disclosure under applicable law. If you have received this facsimile in error, please notify the sender immediately by telephone (collect), and return the original message by first-class mail to the above address.

06 SEP 2006

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S. Peter Ludwig
Darby & Darby
805 Third Avenue
New York, NY 10022-7513

In re Application of CHO et al	:	
U.S. Patent No.: 6,905,829	:	
U.S. Application No.: 10/311,939	:	
PCT Application No.: PCT/KR02/00705	:	
Int. Filing Date: 17 April 2002	:	DECISION
Priority Date Claimed: 17 April 2001	:	
Attorney Docket No.: 00136/0202003-US0	:	
For: A METHOD FOR DETECTING	:	
HYBRIDIZED NUCLEIC ACID WITH	:	
IMPROVED SENSITIVITY	:	

This is in response to applicant's "Petition Under 37 C.F.R. § 1.182 Request for Certificate of Correction to Correct Foreign Priority Data" filed 22 November 2005.

A review of the application file reveals that applicant claimed priority to Korea application number 2001/0020573 in the international application. Furthermore, applicant made a proper claim for priority in the declarations filed 17 December 2002 and 09 October 2003. A certified copy of the priority application was timely submitted to the International Bureau during the international phase.

For the reasons above, the petition under 37 CFR 1.182 is GRANTED.

This application is being forwarded to the Certificate of Correction Branch for preparation of a Certificate of Correction which should insert the proper foreign priority application data.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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JUN - 3 2005

NOVARTIS
CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 104/3
EAST HANOVER, NJ 07936-1080

In re Application of	:
Zebulon D. Horowitz et al	:
Serial No.: 10/311,942	: PETITION TO MAKE SPECIAL
Filed: March 25, 2003	:
Attorney Docket No.: 4-31472A	:

This is in response to applicants' petition filed May 16, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. Therefor the petition is **GRANTED**.

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

The application will be forwarded the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the general Office facsimile number, 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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EAST HANOVER NJ 07936-1080

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AUG 24 2006
OFFICE OF PETITIONS

In re Application of	:	
Horowitz, et al.	:	
Application No. 10/311,942	:	ON PETITION
Filed: March 25, 2003	:	
Attorney Docket No. 4-31472A	:	

This is a decision on the petition to revive an abandoned application under 37 CFR 1.137(b), filed February 3, 2006, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**.

The holding of abandonment is **WITHDRAWN**.

The above-identified application was held abandoned for failure to timely file a response to the non-final Office action mailed June 17, 2005, which set a shortened statutory period for reply of three (3) months. A Notice of Abandonment was mailed on January 3, 2006.

However, a review of the application file reveals that applicants did file an amendment on December 19, 2005, made timely by obtaining a three (3) month extension of time, and by the fact that December 17, 2005 fell on a Saturday. See 37 CFR 1.7(a).

In view of the above, the holding of abandonment is withdrawn.

Given the basis for granting this petition, the $1500 petition fee has been refunded to Deposit Account No. 19-0134.

The matter is being forwarded to Group Art Unit 1615 for consideration of the Amendment filed December 19, 2005.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

25 JUL 2005
UNITED STATES PATENT AND TRADEMARK OFFICE

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Lisa H. Hemmendinger
BANNER & WITCOFF
1001 G Street NW
Eleventh Floor
Washington, D.C. 2001-4597

In re Application of:	:	
RAMAKRISHNAN, Shyam	:	DECISION ON PETITION
Application No.: 10/311,954	:	
PCT No.: PCT/EP01/07287	:	
Int. Filing Date: 26 June 2001	:	
Priority Date: 26 June 2000	:	
Attorney Docket No.: 004974.00931	:	
For: REGULATION OF HUMAN CASPASE-1-LIKE	:	
PROTEASE	:	

This decision is issued in response to applicant's "Petition Under 37 CFR 1.181" filed 30 July 2004, resubmitted by applicant on 06 July 2005. No petition fee is required.

BACKGROUND

On 26 June 2001, applicant filed international application PCT/EP01/07287 which claimed a priority date of 26 June 2000 and which designated the United States. On 03 January 2002, a copy of the international application was transmitted to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB"). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 26 December 2002.

On 20 December 2002, applicant filed a transmittal letter for entry into the national stage accompanied by, among other materials, payment of the small entity basic national fee and an executed declaration.

On 13 February 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification To Comply With Requirements For Patent Applications Containing Nucleotide And/Or Amino Acid Sequence Disclosures" requiring additional sequence listing materials.

On 27 February 2003, applicant filed sequence listing materials in response to the Notification To Comply With Requirements For Patent Applications Containing Nucleotide And/Or Amino Acid Sequence Disclosures.

On 19 March 2004, the DO/EO/US mailed a Notification Of Acceptance that identified 20 December 2002 as the "Date Of Completion Of All 35 U.S.C. 371 Requirements" and 27 February 2003 as the "Date Of Completion Of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4)

Requirements" Also on 19 March 2004, a filing receipt was issued which identified 27 February 2003 as the filing date.

On 30 July 2004, applicant filed the petition considered herein. In the petition, applicant asserts that the "Date Of Completion Of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) Requirements" listed on the Notification Of Acceptance and the filing date listed on the filing receipt should be corrected from 27 February 2003 to 20 December 2002.

On 06 July 2005, applicant re-submitted a second copy of the petition considered herein.

DISCUSSION

A review of the application file confirms that, on 20 December 2002, applicant submitted the basic national fee and an executed declaration in compliance with 37 CFR 1.497. A copy of the international application had previously been communicated to the USPTO by the IB. Accordingly, as of 20 December 2002, applicant had completed the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4). The subsequent submission of required sequence listing materials does not serve to change this date.

Based on the above, the Notification Of Acceptance mailed 19 March 2004, which incorrectly identified the "Date Of Completion Of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) Requirements" as 27 February 2004, is appropriately vacated. Similarly, the filing receipt mailed 19 March 2004, which incorrectly identified the filing date as 27 February 2004, is appropriately vacated.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The Notification Of Acceptance and filing receipt mailed 19 March 2004 are hereby **VACATED**.

The National Stage Processing Branch of the Office of PCT Operations will be instructed to issue a corrected Notification Of Acceptance (Form PCT/DO/EO/903) identifying 20 December 2002 as both the "Date Of Completion Of All 35 U.S.C. 371 Requirements" and the "Date Of Completion Of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) Requirements." A corrected filing receipt that identifies the filing date as 20 December 2002 will also be issued.

Richard M. Ross
PCT Petitions Attorney
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

In re Application of	:	
Joerg Kusserow, et al.	:	
Application No. 10/311,960	:	DECISION ON PETITION
Filed: August 13, 2003	:	TO WITHDRAW
Attorney Docket No. 449122048200	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed June 28, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on August 20, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD, FL 33022-2480

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01 AUG 2003

Gerald M. Murphy
Birch, Stewart, Kolasch & Birch LLP
P.O. Box 747
Falls Church, VA 22040-0747

In re Application of	:	
OZEKI et al.	:	
Application No.: 10/311,972	:	
PCT No.: PCT/JP01/07764	:	DECISION
Int. Filing Date: 07 September 2001	:	
Priority Date: 24 April 2000	:	
Attorney Docket No.: 1422-0563P	:	
For: COMPOSITIONS FOR IMPROVING MENTAL CONCENTRATION		

This decision is in response to applicants' "Letter Responding to Notification of Defective Response" filed 30 June 2003 which is being treated as a Petition under 37 CFR 1.182 to change an inventor's name. The petition fee of **$130** has been charged to counsel's Deposit Account No. 02-2448, per applicants' authorization.

BACKGROUND

On 23 December 2002, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia: the basic national fee; a copy of the international application; an English-language translation of the international application; and a preliminary amendment.

On 30 January 2003, the United States/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indication an oath or declaration and the surcharge for filing the oath or declaration later than 30 months from the priority date as required by 37 CFR 1.492(e) must be furnished. The notification set a two-month time limit in which to respond.

On 11 February 2003, applicants filed a declaration executed by: Makoto Ozeki; Tomoko Kumagai; Tsutomu Okubo; and Lekh Raj Juneja.

On 08 May 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration was defective because the "last name of the second inventor (Tomoko KUMAGAI) is different than that which was originally filed with the International Bureau (Tomoko Ueda)."

07 OCT 2003

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Gerald M. Murphy
Birch, Stewart, Kolasch & Birch LLP
P.O. Box 747
Falls Church, VA 22040-0747

In re Application of		
OZEKI et al.	:	
Application No.: 10/311,972	:	
PCT No.: PCT/JP01/07764	:	
Int. Filing Date: 07 September 2001	:	DECISION
Priority Date: 24 April 2000	:	
Attorney Docket No.: 1422-0563P	:	
For: COMPOSITIONS FOR IMPROVING MENTAL CONCENTRATION	:	

This is a decision on applicants' "Renewed Petition under 37 CFR 1.182" filed in the Patent and Trademark Office (PTO) on 12 September 2003. Applicants are requesting to change the name of the second named inventor from Tomoko Ueda to Tomoko Kumagai due to marriage. The petition was accompanied by an affidavit signed by Tomoko Kumagai using both her former name and present name.

DISCUSSION

As stated in the previous Decision, the Manual of Patent Examining Procedure at § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include (1) the appropriate petition fee and (2) an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order. The petition has been reviewed and is approved. The declaration submitted on 11 February 2003 is accepted.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name from Tomoko Ueda to Tomoko Kumagai is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

DISCUSSION

The Manual of Patent Examining Procedure at § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include (1) the appropriate petition fee and (2) an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order. As noted above, the $130 petition fee has been charged to counsel's Deposit Account No.02-2448, and thus item (1) has been satisfied.

With regards to item (2), the "Extract of Family Register for the Kumagais" does not appear to be a certified copy of the court order, but merely a photocopy of a family registry document and a translation of the relevant portion of the "Extract of Family Register for the Kumagais." If a certified copy of the court order is not available, applicants may file an affidavit signed by Ms. KUMAGAI with **both** names setting forth the procedure whereby the change of name was effected. Therefore, item (2) has not been satisfied, and thus the petition may not be properly granted at this time.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182." No additional petition fee is required.

A proper response must include an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention to the PCT Legal Office.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JUL 29 2004

ARENT FOX KINTNER PLOTKIN & KAHN,PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, D.C. 20036-5339

In re Application of	:
Cristina M. Geroni et al.	:
Serial No.: 10/311,995	: PETITION DECISION
Filed: December 23, 2002	:
Attorney Docket No.: 10615-00018	:

This is in response to the petition under 37 CFR 1.181, filed May 5, 2004, for withdrawal of abandonment of the above identified application based on failure to receive an Office action due to a change of address.

A review of the file history shows that the examiner mailed an Office action to applicants on July 8, 2003, setting a three month shortened statutory period for reply. Upon failure to receive a reply the Office mailed a Notice of Abandonment to applicants on March 22, 2004. Applicants state that the Office action was never received and provided a copy of the change of address filed by Applicant on December 23, 2002 with a postcard receipt and a copy of the Office action of July 8, 2003 with the incorrect mailing address establishing that the Office action was never received. In view of the evidence presented the Notice of Abandonment is withdrawn and the application is restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application will be forwarded to the examiner for mailing of a new Office action.

Should there be any questions about this decision please contact Jean F. Vollano, by letter addressed to Director, TC 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0648 or by facsimile sent to the general Office facsimile number.

Bruce Kisliuk
Director, Technology Center 1600

United States Patent and Trademark Office

17 MAR 2006

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ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

In re Application of	:	
Villard et al.	:	
Application No. 10/311,996	:	DECISION
PCT No.: PCT/FR01/01892	:	
Int. Filing Date: 15 June 2001	:	ON
Priority Date: 23 June 2000	:	
Atty. Docket No.: 024118-00053	:	PETITION
For: Use As Thickeners In Cosmetics Of	:	
Neutralized Copolymers Comprising	:	
Weak Acid Units And Strong Acid...	:	

This is in response to the petition under 37 CFR 1.181 filed on 17 September 2003, a copy of which was filed on 05 May 2004.

BACKGROUND

This international application was filed on 15 June 2001, claimed an earliest priority date of 23 June 2000, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 27 December 2001. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 23 December 2002. Applicants filed *inter alia* the basic national fee on 23 December 2002.

On 17 June 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the filing of an oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b), and a surcharge under 37 CFR 1.492(e).

On 05 August 2003, applicants filed a declaration of the inventors and a surcharge under 37 CFR 1.492(e).

On 05 September 2003, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to applicants, indicating that the date of this application under 35 U.S.C. 371(c)(1), (2) and (4) was "08/03/2003."

On 11 May 2004, a "Withdrawal of Previously Sent Notice" was mailed to applicants, withdrawing the Form PCT/DO/EO/903 mailed on 05 September 2003. An accompanying, new Form PCT/DO/EO/903 indicated that the date of this application under 35 U.S.C. 371(c)(1), (2) and (4) was "08/05/2003."

DISCUSSION

Petitioner requests "that the filing date of the subject application in the Patent and Trademark Office records be corrected to read August 5, 2003, and a corrected Official Filing Receipt be prepared and mailed to the undersigned." Review of the record reveals that the new Form PCT/DO/EO/903 mailed on 11 May 2004 corrected the date of this application under 35 U.S.C. 371(c)(1), (2) and (4) to "08/05/2003," which is the date requested by petitioner. As such, the instant petition is **MOOT**.

DECISION

The petition is **DISMISSED AS MOOT**, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are available.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, P.O. Box 1450, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

30 JUN 2003

#3

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John M. Harrington
Kilpatrick Stockton LLP
1001 West Fourth Street
Winston-Salem, NC 27101

In re Application of RAMSAY, Thomas W. Application No.: 10/312,020 PCT No.: PCT/IB01/00621 Int. Filing Date: 13 April 2001 Priority Date: 13 April 2000 Docket No.: GMPD-337 For: SEALING APPARATUS HAVING SEQUENTIALLY ENGAGEABLE SEALS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicant's "Petition Under 37 C.F.R. §1.137(b) and (c) For Revival of an Application Unintentionally Abandoned For Failure to Prosecute," filed in the above-captioned application on 20 December 2002 is **GRANTED**.

Applicant's statement that the delay was unintentional is construed to mean that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). If this is not a correct interpretation, applicant must notify the Office immediately. The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a)-(b) was submitted with the national stage papers.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 20 December 2002 under 35 U.S.C. §371.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

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ALEXANDRIA VA 22320

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OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,041,237 :
Issue Date: May 9, 2006 :
Application No. 10/312,043 :
Filed: December 23, 2002 :
Attorney Docket No. 114577 :

This is a decision on the petition filed June 22, 2006, 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is granted.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3208. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1]See Official Gazette of June 22, 2004

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Stamford CT 06901-2682

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DEC 1 2 2003

OFFICE OF PETITIONS

Applicant: Fotheringhan et al.
Appl. No.: 10/312,060
Filing Date: April 21, 2003
Title: DEVICE FOR HOMOGENOUS HEATING OF GLASSES AND/OR GLASS CERAMICS
Attorney Docket No.: 608.0016USU
Pub. No.: US 2003/0182966 A1
Pub. Date: October 2, 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 12, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the Notice of Publication of Application for the instant application contains the wrong filing date and the title of the invention is missing the word "of" between "Heating" and "Glasses".

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." **A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.**[1] The instant request does not identify a material mistake in the publication made by the Office:

The first error is clearly a minor typographical error, as the omission of the word "of" between "Heating" and "Glasses" does not affect the understanding of the application and is clearly understandable from reading the specification and claims, as words and phrases are not read in a vacuum. Additionally, the mistake is in the title and the title of the invention is still clearly understandable. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. To avoid this type of error in the future, applicant should make a request for a corrected filing receipt.

With respect to the second error, the Office correctly published the application in accordance with 37 CFR 1.215(a) with a filing date of April 21, 2003. The application as originally filed on December 20, 2002, did not include a signed copy of the declaration, as required. Since applicant supplied a copy of the signed declaration on April 21, 2003, that became the filing date of the application. The Notice of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.495, mailed on May 5, 2003 listed the filing date as April 21, 2003 and gave the reason for the later filing date.

---

[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).

Applicant's request for a corrected patent application publication on November 12, 2003, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), should be submitted via the EFS system and questions should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: 703-305-8568

The application will be examined in due course.

Inquires concerning this communication should be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

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JEFFREY M. GREENMAN
BAYER CORPORATION
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WEST HAVEN, CT 06516

MAILED

MAR 0 3 2009

OFFICE OF PETITIONS

In re Application of
Tobias **SCHLAPP, et al.**
Application No. 10/312,062
Filed: December 20, 2002
Attorney Docket No. **LeA3440**

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 1, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed August 25, 2005 , which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 26, 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 2 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on September 26, 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). Statements are required from any and all person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over two years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents

P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

Brian W. Brown
Petitions Examiner
Office of Petitions

30 JUL 2003

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Douglas W. Sprinkle
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Birmingham, MI 48009

In re Application of DENNE	:	
U.S. Application No.: 10/312,068	:	
PCT Application No.: PCT/GB01/02868	:	
Int. Filing Date: 29 June 2001	:	DECISION
Priority Date Claimed: 30 June 2000	:	
Attorney Docket No.: BKR-23002/01	:	
For: APPARATUS FOR PRODUCING OR	:	
ENHANCING A PERCEIVED SENSATION	:	
OF MOTION	:	

This is in response to applicant's "Petition Under 37 CFR 1.47(b)" filed 09 July 2003.

BACKGROUND

On 29 June 2001, applicant filed international application PCT/GB01/02868, which claimed priority of an earlier United Kingdom application filed 30 June 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 10 January 2002. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 30 December 2002.

On 19 December 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 09 May 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 09 July 2003, applicant filed the present petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(i), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. See 37 CFR 1.47(b).

With regard to item (1) above, the requisite fee has been provided.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that inventor Phillip Denne refuses to sign the application papers. Applicant has sufficiently demonstrated that a bona fide attempt was made to present a copy of the application papers to Denne for signature (see petition, ¶¶7,9,10,12, and exhibits B-E). Furthermore, applicant has adequately illustrated that Denne refuses to sign. Specifically, Denne made an express oral refusal to sign the declaration during a telephone conversation with Mark Schneider (see Schneider's affidavit, ¶3). Thus, it can be concluded with reasonable certainty that Denne refuses to sign the application papers.

With regard to item (3) above, the petition states the last known address of the nonsigning inventor.

With regard to item (4) above, an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor has been provided.

With regard to item (5) above, the 37 CFR 1.47(b) applicant must prove that, as of the date the application was deposited in the Patent and Trademark Office, (A) the invention has been assigned to the applicant, or (B) the inventor has agreed in writing to assign the invention to the applicant, or (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify filing of the application. MPEP 409.03(f).

The petition states that the present invention has been assigned to Kinetic Developments Ltd. ("Kinetic") by virtue of an assignment agreement from the inventor Denne to Dynaflex Developments Ltd. ("Dynaflex") and an assignment agreement from Dynaflex to Kinetic. Although applicant has provided proof of assignment from Dynaflex to Kinetic, applicant has not provided proof of assignment from inventor Denne to Dynaflex. Thus, it cannot be concluded that Kinetic has sufficient proprietary interest in the present application.

With regard to item (6) above, applicant has made an adequate showing of potential irreparable harm.

CONCLUSION

Because applicant has failed to satisfy item (5) above, the petition under 37 CFR 1.47(b) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

10 OCT 2003

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Douglas W. Sprinkle
Gifford, Krass, Groh, Sprinkle, Anderson & Citkowski, P.C.
280 N. Old Woodward Ave., Suite 400
Birmingham, MI 48009

In re Application of DENNE	:	
U.S. Application No.: 10/312,068	:	
PCT Application No.: PCT/GB01/02868	:	
Int. Filing Date: 29 June 2001	:	DECISION
Priority Date Claimed: 30 June 2000	:	
Attorney Docket No.: BKR-23002/01	:	
For: APPARATUS FOR PRODUCING OR ENHANCING A PERCEIVED SENSATION OF MOTION	:	

This is in response to applicant's "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" filed 30 September 2003.

BACKGROUND

On 29 June 2001, applicant filed international application PCT/GB01/02868, which claimed priority of an earlier United Kingdom application filed 30 June 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 10 January 2002. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 30 December 2002.

On 19 December 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 09 May 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 09 July 2003, applicant filed a petition under 37 CFR 1.47(b).

On July 2003, this Office mailed a decision dismissing the 09 July 2003 petition.

On 30 September 2003, applicant filed the present renewed petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(i), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. See 37 CFR 1.47(b).

Applicant has previously satisfied items (1)-(3) and (6) above.

With regard to item (4) above, an oath or declaration executed by the new 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor has been provided. However, the submitted declaration is improper. Specifically, pages 1 and 2 of the declaration appear to be original sheets while page 3 of the declaration appears to have been transmitted by facsimile. This suggests that page 3 of the declaration was not associated with pages 1 and 2 of the declaration at the time of execution, thereby rendering the execution improper. Applicant must supply a complete declaration which is presented to and executed by the appropriate individual.

With regard to item (5) above, the 37 CFR 1.47(b) applicant must prove that, as of the date the application was deposited in the Patent and Trademark Office, (A) the invention has been assigned to the applicant, or (B) the inventor has agreed in writing to assign the invention to the applicant, or (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify filing of the application. MPEP 409.03(f).

The petition states that the present invention has been assigned to Advanced Motion Technologies ("AMT") by virtue of an assignment agreement from the inventor Denne to Dynaflex Developments Ltd. ("Dynaflex"), an assignment agreement from Dynaflex to Kinetic Developments Ltd. ("Kinetic"), and an assignment from Kinetic to AMT. Although applicant has provided proof of assignment from Denne to Dynaflex and from Dynaflex to Kinetic, applicant has not provided sufficient proof of assignment from Kinetic to AMT. Specifically, the assignment agreement (see Exhibit C of the renewed petition) is not signed by the assignee. Furthermore, the assignment agreement should specify the position of the persons signing. Thus, it cannot be concluded at the present time that AMT has sufficient proprietary interest in the present application.

CONCLUSION

Because applicant has failed to satisfy items (4) and (5) above, the renewed petition under 37 CFR 1.47(b) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Tung
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21 JAN 2004

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Douglas W. Sprinkle
Gifford, Krass, Groh, Sprinkle, Anderson & Citkowski, P.C.
280 N. Old Woodward Ave., Suite 400
Birmingham, MI 48009

In re Application of DENNE	:	
U.S. Application No.: 10/312,068	:	
PCT Application No.: PCT/GB01/02868	:	
Int. Filing Date: 29 June 2001	:	DECISION
Priority Date Claimed: 30 June 2000	:	
Attorney Docket No.: BKR-23002/01	:	
For: APPARATUS FOR PRODUCING OR	:	
ENHANCING A PERCEIVED SENSATION	:	
OF MOTION	:	

This is in response to applicant's "Second Request for Reconsideration of Petition Under 37 CFR 1.47(b)" filed 05 December 2003.

BACKGROUND

On 29 June 2001, applicant filed international application PCT/GB01/02868, which claimed priority of an earlier United Kingdom application filed 30 June 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 10 January 2002. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 30 December 2002.

On 19 December 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 09 May 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 09 July 2003, applicant filed a petition under 37 CFR 1.47(b).

On 30 July 2003, this Office mailed a decision dismissing the 09 July 2003 petition.

On 30 September 2003, applicant filed a renewed petition under 37 CFR 1.47(b).

On 10 October 2003, this Office mailed a decision dismissing the 30 September 2003 renewed petition.

On 05 December 2003, applicant filed the present renewed petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(i), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. See 37 CFR 1.47(b).

Applicant has previously satisfied items (1)-(3) and (6) above.

With regard to item (4) above, a proper declaration executed by the new 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor has been provided.

With regard to item (5) above, the 37 CFR 1.47(b) applicant must prove that, as of the date the application was deposited in the Patent and Trademark Office, (A) the invention has been assigned to the applicant, or (B) the inventor has agreed in writing to assign the invention to the applicant, or (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify filing of the application. MPEP 409.03(f).

The petition states that the present invention has been assigned to Advanced Motion Technologies ("AMT") by virtue of an assignment agreement from the inventor Denne to Dynaflex Developments Ltd. ("Dynaflex"), an assignment agreement from Dynaflex to Kinetic Developments Ltd. ("Kinetic"), and an assignment from Kinetic to AMT. Applicant has provided sufficient proof of assignment from Denne to Dynaflex and from Dynaflex to Kinetic. Regarding proof of assignment from Kinetic to AMT, applicant's arguments are persuasive and Exhibit C of the renewed petition is acceptable evidence of assignment. Thus, it can be concluded with reasonable certainty that AMT has sufficient proprietary interest in the present application.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(b) is GRANTED.

This application has an international filing date of 29 June 2001 and a date under 35 U.S.C. 371(c) of 05 December 2003.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

As set forth in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address of record and will be published in the *Official Gazette*.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

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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	:	
Diemer et al.	:	DECISION ON PETITION
Application No. 10/312,079	:	UNDER 37 CFR 1.137(b)
Filed: February 4, 2003	:	
Attorney Docket No. 1933.3005	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 21, 2005, to revive the above-identified application.

This application became abandoned for failure to reply timely to the nonfinal Office Action mailed August 3, 2004, which set a three (3) month shortened statutory period to reply. Accordingly, this application became abandoned on November 4, 2004. A Notice of Abandonment was mailed on February 7, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an amendment, paid the petition fee, and made the proper statement of unintentional delay. The petition is **granted**.

There is no indication in the record that John M. Belz was ever empowered to prosecute this application, or that a change of correspondence was submitted. Thus, if petitioner would like to receive communication regarding this application, petitioner should submit a revocation and appointment of power of attorney and a change of correspondence address. As a one-time courtesy, the Office will mail the decision to the address listed on the petition. The USPTO will mail all correspondence to address of record until otherwise notified.

This matter is being referred to Technology Center Art Unit 1724.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Cc: Reising Ethington Barnes Kisselle
Learman & McCulloch
5291 Colony Drive North
Saginaw MI 48603

19 AUG 2003

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Ronald W. Burns
Gardere Wynne Sewell LLP
Thanksgiving Tower
1601 Elm Street, Suite 3000
Dallas, TX 75201

In re Application of HEDIN, Jan, et al. Application No.: 10/312,080 PCT No.: PCT/EP01/04452 Int. Filing Date: 19 April 2001 Priority Date: 20 April 2000 Docket No.: 64645-1069 For: PROXY APPARATUS AND METHOD	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicant's "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 19 December 2002 is **GRANTED**.

Applicant states "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration has not yet been submitted.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision, including the mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration are required.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
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MAR 18 2004

Michelle E. O'Brien
FINNEGAN, HENDERSON, FARABOW
GARRETT & DUNNER, LLP
1300 I Street, NW
Washington, D.C. 20005-3315

In re Application of	:	
Patricia LEMANN	:	
Serial No. 10/312,083	:	DECISION ON PETITION
International Filing Date: December 23, 2002	:	
Attorney Docket No.: 5725.1187-00	:	

This is in response to applicant's "Petition to Make Special under 37 CFR 1.102(d) and MPEP 708.02, (II)" filed February 27, 2004.

A review of the petition shows that requirements of MPEP 708.02 have been met. Accordingly, the petition is granted. There is no provision for "withdrawal" from this special status.

Petition Granted.

Should there be any questions with regard to this letter please contact Cecilia Tsang by letter addressed to the Director, Technology center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0562 or by facsimile transmission to the Office general facsimile number.

Cecilia Tsang
Special Program Examiner, TC1600

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of :

Claude Choquet :
Application No. 10/312,087 : DECISION ON PETITION
Filed: June 22, 2001 : TO WITHDRAW
Attorney Docket No. 025453/0102 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 18, 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 attorneys/agents associated with customer number 22428. 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).

Stephen B. Maebius signed the request on behalf of all attorneys of record.

Stephen B. Maebius and all attorneys/agents associated with application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

Cc: Claude Choquet
1751 Richardson
Suite 2.204
Montreal, Quebec H3K 1G6
Canada

Cc: Martin Sulsky, D.E.Sc.
Patton Boggs LLP
8484 Westpark Drive, 9th Floor
McLean, VA 22102

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P.O. BOX 1539
KING OF PRUSSIA, PA 19406-0939

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OFFICE OF PETITIONS

In re Application of :
Dominique Boutriau, et. al. :
Application No. 10/312,090 : ON PETITION
Filed: March 26, 2003 :
Attorney Docket No. B45225 :

This is a decision on the petition under 37 CFR 1.137(b), filed on November 27, 2006, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed March 17, 2006. A Notice of Abandonment was mailed on October 23, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of an Election; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The application file is being referred to Technology Center Art Unit 1645, 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

08 APR 2003

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James H. Walters
Dellett and Walters
Suite 1101
310 S. W. Fourth Avenue
Portland, Oregon 97204

In re Application of	:	
KAWAMATA et al.	:	
Application No.: 10/312,102	:	DECISION
PCT No.: PCT/JP01/06898	:	
Int. Filing Date: 10 August 2001	:	
Priority Date: 11 August 2000	:	
Attorney Docket No.: Y-211	:	
For: INK-JET RECORDER AND METHOD FOR CLEANING RESTORATING SYSTEM		

This is a decision on "Letter Requesting Correction of Third Inventor's Name and Explaining Reason for Requirement of Request" filed 20 December 2002 notifying the Office that the correct spelling of the third inventor's name is Tomohiro ISHITSU, as indicated on the declaration, filed on 20 December 2002, rather than Tomohiro Ishizu as is indicated on the published international application.

As indicated in Section 201.03 of the Manual of Patent Examining Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition under 37 CFR 1.48(a) is not required. Accordingly, applicants' explanation of the difference in the spelling of the third inventor's name is accepted and noted for the record.

For the reasons above, the request is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing with the last name of the third named inventor spelled as ISHITSU and for review of the national stage papers submitted 20 December 2002 and, if appropriate, preparation and mailing of the Notification of Acceptance of Application under 35 U.S.C. 371 indicating a date of **20 December 2002** under 35 U.S.C. 371(c).

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: (703) 308-6314
Fax: (703) 308-6459

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Orum & Roth LLC
53 W. Jackson Boulevard
Chicago IL 60604-3606

In re Application of	:	
IGGLAND	:	
Application No. 10/312,118	:	DECISION ON PETITION
Filed: December 20, 2002	:	TO WITHDRAW
Attorney Docket No. 13345	:	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 July 16, 2006.

The request is **APPROVED**.

A review of the file record indicates that Catherine L. Gemrich: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Catherine L. Gemrich has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

Applicant is reminded that there is no attorney of record at this time.

There is no outstanding Office action that requires a reply from the applicant.

The correspondence address remains unchanged.

Telephone inquires concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

cc: Benny Iggland
Aurorastrasse 63
CH-8032 ZuRICH
SWITZERLAND

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THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

Mail Date: 04/21/2010

Applicant	: Tsutomu Miyano	: DECISION ON REQUEST FOR
Patent Number	: 7608119	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/312,158	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/19/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **329** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APR 7 2004

VP
PAPER NO. ___

In re Application of
Scott Maurer
Serial Number: 10/312,167
Filed: June 21, 2000
For: ARCHITECTURAL MOLDING

PETITION UNDER
MPEP 708.02 VIII

This is in response to the Petition to Make Special filed November 6, 2003, requesting that the above-identified application be granted Special Status under section 708.02 VIII of the MPEP and 37 CFR 1.102(d). The fee set forth in 37 CFR 1.17(h) has been paid.

The criteria set forth in section 708.02 VIII of the MPEP and 37 CRF 1.102(d) have been met.

Accordingly the petition is **GRANTED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

HAHN LOESER & PARKS, LLP
TWIN OAKS ESTATE
1225 W. MARKET STREET
AKRON OH 44313

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80 SOUTH 8TH ST
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Jacques Messager	:	
Application No. 10/312,171	:	ON PETITION
Filed: February 6, 2003	:	
Attorney Docket No. 33155.10	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 9, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 22, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 23, 2004.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2645.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

25 APR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

#3

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WASHINGTON, D.C. 20231
www.uspto.gov

James J. Bindseil
710 Medtronic, Parkway MS LC340
Minneapolis, MN 55432

In re Application of: BRANCH, Charles, L., et al.	:	
U.S. Application No.: 10/312,174	:	DECISION ON PETITION TO
PCT No.: PCT/US00/41392	:	REVIVE ABANDONED
International Filing Date: 20 October 2002	:	APPLICATION UNDER 37
Priority Date: 20 October 1999	:	CFR 1.137(b)
Attorney's Docket No.: PC406.01	:	
For: IMPACTED ORTHOPEDIC BONE SUPPORT	:	
IMPLANT	:	

The petition to revive under 37 CFR 1.137(b) filed 23 December 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3). Applicants have now submitted the basic national fee, the petition fee of $1,280 will be charged to Deposit Account No. 13-2546, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the issuance of a Notification Of Missing Requirements requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

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#3

25 SEP 2003

James B. Myers, Jr.
WOODARD EMHARDT NAUGHTON MORIARTY & MCNETT
111 Monument Circle, Bank One Tower, Suite 3700
Indianapolis, IN 46204

In re Application of: BRANCH, Charles, L., et al.	:	
U.S. Application No.: 10/312,174	:	DECISION
PCT No.: PCT/US00/41392	:	
International Filing Date: 20 October 2002	:	
Priority Date: 20 October 1999	:	
Attorney's Docket No.: 4002-3248	:	
For: IMPACTED ORTHOPEDIC BONE SUPPORT IMPLANT	:	

This application is before the PCT Legal Office for consideration of issues arising under 37 U.S.C. 371.

BACKGROUND

On 20 October 2002, applicants filed international application PCT/US00/41392, which claimed priority of an earlier application filed 20 October 1999. A Demand for international preliminary examination electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the period for paying the basic national fee in the United States was extended to thirty months from the priority date, i.e. 22 April 2002 (20 April 2002 was a Saturday)..

On 23 December 2002, counsel James J. Bindseil filed a "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371" (Form PTO-1390) with respect to international application PCT/US00/41392. This submission included payment of the basic national fee and a petition to revive the international application pursuant to 37 CFR 1.137(b) (with fee). The submission was assigned application number 10/312,174.

On 25 April 2003, this Office issued a decision granting the petition to revive the application.

On 05 May 2003, a Notification Of Missing Requirements was mailed indicating that a declaration in compliance with 37 CFR 1.497 and the $130 surcharge for filing the declaration later than thirty months after the priority date were required.

On 09 May 2003, above-named counsel filed a second "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371" (Form

PTO-1390) with respect to international application PCT/US00/41392. This submission included payment of the basic national fee, payment of the surcharge for filing the declaration later than thirty months after the priority date, a petition to revive the international application pursuant to 37 CFR 1.137(b) (with fee), and a declaration in compliance with 37 CFR 1.497. These materials were assigned application number 10/416,483.

The declaration filed on 09 May 2003 set forth the address listed above for correspondence herein. James J. Bindseil, the attorney who had made the first national stage submission using a different address, was included as an appointed representative in the declaration.

DISCUSSION

As is evident from the above recited facts, two sets of papers to enter the national stage have been submitted for international application number PCT/US00/41392 (United States application numbers 10/312,174 and 10/416,483). The end result for an international application designating the United States of America is a single U.S. national stage application. Therefore, the submission of two sets of national stage papers to enter the United States was improper.

As noted above, the documents filed in application number 10/416,483 include a declaration executed by the inventors. This declaration includes an appointment of counsel that identifies the above-listed name and address as the correspondence address, but which also appoints counsel who filed 10/312,174.

Based on the above facts, application number 10/312,174, the first application filed by appointed counsel, will be treated as the United States national stage application file for international application PCT/US00/41392. The materials filed on 09 May 2003 and assigned application number 10/416,483 have been placed in this application file.

The petition to revive the application included in the 09 May 2003 submission is moot, in that this application has already been revived pursuant to the previously filed petition. The basic national fee and petition fee included with the 09 May 2003 submission will be refunded to Deposit Account No. 23-3030 because such fees have already been paid.

The declaration and surcharge submitted on 09 May 2003 are accepted as a proper response to the Notification Of Missing Requirements mailed 05 May 2003.

All further correspondence with respect to the national stage of PCT /US00/41932 will be mailed to above-named counsel at the above-listed address and reference application number 10/312,174. Application number 10/416,483 will be discontinued.

CONCLUSION

The papers filed on 09 May 2003 and assigned application number 10/416,483 have been placed in the file of application number 10/312,174. Application 10/416,483 will be discontinued.

Application 10/312,174 will continue to be processed as the national stage of PCT/US00/41392.

Deposit Account No. 23-3030 will be refunded the redundant $900 basic national fee and the $1300 petition fee.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accord with this decision, including updating USPTO records to indicate the proper correspondence address and docket number (as listed above). The 35 U.S.C. 371 date is 09 May 2003.

Boris Milef
PCT Legal Examiner
PCT Legal Office

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

RMR/BM:rmr

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The Firm of Hueschen and Sage
500 Columbia Plaza
350 East Michigan Avenue
Kalamazoo, MI 49007

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OFFICE OF PETITIONS

In re Application of :
Claude Monneret, et al. :
Application No. 10/312,175 :
Filed: December 20, 2002 :
Attorney Docket No. SERVIER 394 PCT :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 16, 2004, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to the Publishing Division to be processed into a patent.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

09 SEP 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

#6

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LICATLA & TYRRELL P.C.
66 E. MAIN STREET
MARLTON, NJ 08053

In re Application of Wheatley, Ko, El-Sherif, Dhoot, Kanakasabai, Bejelloun, and Han Application No. 10/312,189 PCT No.: PCT/US01/41133 International Filing Date: 25 June 2001 Priority Date: 23 June 2000 Attorney Docket No.: DRE-0096 For: POLYMERIC, FIBER MATRIX DELIVERY SYSTEMS FOR BIOACTIVE COMPOUNDS	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on the applicant's petition under 37 CFR 1.47(a) filed 28 July 2003, to accept the application without the signature of inventor Han.

BACKGROUND

On 20 December 2002, applicant filed international application PCT/US01/41133 which claimed a priority date of 23 June 2000 and designated the United States. A demand for international preliminary examination, in which the United States was elected, was filed on 18 January 2002, prior to the expiration of the nineteen months from the priority date, Accordingly, the thirty month period for paying the basic national fee expired at midnight on 23 December 2002.

On 20 December 2002, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 USC 371(c)(1), a copy of the international search report, and an oath or declaration.

On 28 January 2003, the United States Designated/Elected Office mailed Notification of Missing Requirements under 35 USC 371 indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed along with the surcharge for the later filing of the oath or declaration. The notification set a two-month time limit in which to respond. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a).

On 28 July 2003, applicant filed the instant petition under 37 CFR 1.47(a) along with a request for an extension of time within the fourth month. The petition was accompanied by a statement detailing the efforts to reach the non-signing inventor, copies of correspondence sent to the non-signing inventor, and the oaths or declarations executed by the remaining joint inventors.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventors refuse to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventors, (4) an oath or declaration signed by the joint inventors on themselves and on behalf of the non-signing inventors. Applicant has satisfied items (1), (3), and (4).

As to item (2), applicant has not properly established that a diligent effort was made to locate inventor Han. Section 409.03(d) of the *Manual of Patent Examining Procedure* (MPEP) provides, in pertinent part, that "[w]here inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, 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." Relative to inventor Han, applicant only indicates that correspondence was sent to the last known address for inventor Han, via certified mail, return receipt, but applicant has not received anything to confirm that the correspondence was properly received, i.e., the return receipt. Applicant's assertion that the correspondence was likely received by inventor Han because the correspondence was not returned marked undeliverable is noted, but the failure of the correspondence marked undeliverable or the return receipt to be returned does not satisfy the evidentiary standard for establishing diligence in a 37 CFR 1.47 petition. To establish that a diligent effort was made to locate inventor Han, Section 409.03(d) of the MPEP further provides that:

> [c]opies of documentary evidence such as Internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the non-signing inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in a statement of facts. It is important that the statement contain facts as opposed to conclusions.

Diligence in locating inventor Han requires more than mailing correspondence to his last known address via certified mail, return receipt when there is no further evidence to suggest that the correspondence was received. Any renewed petition filed must provide more evidence of applicant's efforts to locate inventor Han.

For the reasons stated above, it would not be appropriate to accept the application without the signature of inventor Han under 37 CFR 1.47(a) at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.47(a) is **DISMISSED, without prejudice**.

Applicant's are hereby afforded **TWO (2) MONTHS** from the mailed date of this decision to file either 1) an oath or declaration in compliance with 37 CFR 1.497(a)-(b) signed by all inventors or (2) a renewed petition satisfying the requirements under 37 CFR 1.47(a). Any reconsideration request should include a cover letter titled, "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

The fee for the instant petition ($130.00) will be charged to deposit account 50-1619.

Any further correspondence with respect to this matter should be directed to the Mail Stop PCT, Commissioner for Patents, PO Box 1450, Alexandria, Virginia, 22313-1450.

Leonard Smith
PCT Legal Advisor
Office of PCT Legal Administration

Kenya A. McLaughlin
PCT Detailee
Office of PCT Legal Administration

Telephone (703)305-0010
Facsimile (703) 308-6459

17 DEC 2004

#6

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LICATLA & TYRRELL P.C.
66 E. MAIN STREET
MARLTON NJ 08053

In re Application of	:	
WHEATLEY et al.	:	
Application No.: 10/312,189	:	DECISION
PCT No.: PCT/US01/41133	:	
Int. Filing Date: 25 June 2001	:	
Priority Date: 23 June 2000	:	
Attorney Docket No.: DRE-0096	:	
For: POLYMERIC, FIBER MATRIX DELIVERY	:	
SYSTEMS FOR BIOACTIVE COMPOUNDS	:	

This is a decision on applicants' "Renewed Petition Under 37 CFR §1.47(a)" filed 22 September 2003 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 25 June 2001, applicants filed international application PCT/US01/41133, which designated the United States and claimed a priority date of 23 June 2000. A copy of the international application was communicated from the International Bureau to the USPTO on 03 January 2002. A demand for international preliminary examination, in which the United States was elected, was filed on 18 January 2002, prior to the expiration of nineteen months from the priority date. The thirty-month period for paying the basic national fee in the United States expired at midnight on 23 December 2002.

On 20 December 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 28 January 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 28 July 2003, applicants filed a "Petition Under 37 CFR §1.47(a)" which was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(e), a petition/fee for a four month extension of time.

On 09 September 2003, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a). Specifically, it was noted that factual proof that the missing joint inventor could not be reached after diligent effort had not been provided.

On 22 September 2003, applicants submitted the instant "Renewed Petition Under 37 CFR 1.47(a)" which was accompanied by, *inter alia*, a declaration of facts by Kathleen A. Tyrrell, a copy of a letter to the non-signing joint inventor Mr. Baohua Han dated 01 April 2003, a copy of a letter to Mr. Han dated 16 July 2003, and a copy of the front of the returned envelope mailed by certified mail on 16 July 2003.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

As noted in the decision mailed 09 September 2003, items (1), (3) and (4) have been satisfied.

Item (2) still has not been satisfied. The declaration of Kathleen A. Tyrrell has been considered. While it does appear from the evidence presented in the renewed petition that Mr. Han no longer resides at 336 North 41st Street, Philadelphia, Pennsylvania 19104, it is not clear that any effort was made to obtain a forwarding address for Mr. Han. There is no suggestion that Mr. Han's employer or former employer was contacted to attempt to find a forwarding address, nor does it appear that the post office was contacted. Also, it does not appear that an internet search for "Baohua Han" has been conducted. The name does not appear to be a common one and an internet search may prove very useful with little additional effort.

Accordingly, it is not appropriate to accord the national stage application status under 37 CFR 1.47(a) at this time.

CONCLUSION

For the above reasons, applicants' renewed petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional

petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

28 FEB 2005

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66 E. MAIN STREET
MARLTON NJ 08053

In re Application of	:	
WHEATLEY et al.	:	
Application No.: 10/312,189	:	DECISION
PCT No.: PCT/US01/41133	:	
Int. Filing Date: 25 June 2001	:	
Priority Date: 23 June 2000	:	
Attorney Docket No.: DRE-0096	:	
For: POLYMERIC, FIBER MATRIX DELIVERY	:	
SYSTEMS FOR BIOACTIVE COMPOUNDS	:	

This is a decision on applicants' second "Renewed Petition Under 37 CFR §1.47(a)" filed 28 January 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 25 June 2001, applicants filed international application PCT/US01/41133, which designated the United States and claimed a priority date of 23 June 2000. A copy of the international application was communicated from the International Bureau to the USPTO on 03 January 2002. A demand for international preliminary examination, in which the United States was elected, was filed on 18 January 2002, prior to the expiration of nineteen months from the priority date. The thirty-month period for paying the basic national fee in the United States expired at midnight on 23 December 2002.

On 20 December 2002, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 28 January 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 28 July 2003, applicants filed a "Petition Under 37 CFR §1.47(a)" which was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(e), a petition/fee for a four month extension of time.

On 09 September 2003, a decision was mailed dismissing applicants' petition under 37

CFR 1.47(a). Specifically, it was noted that factual proof that the missing joint inventor could not be reached after diligent effort had not been provided.

On 22 September 2003, applicants submitted a "Renewed Petition Under 37 CFR 1.47(a)" which was accompanied by, *inter alia*, a declaration of facts by Kathleen A. Tyrrell, a copy of a letter to the non-signing joint inventor Mr. Baohua Han dated 01 April 2003, a copy of a letter to Mr. Han dated 16 July 2003, and a copy of the front of the returned envelope mailed by certified mail on 16 July 2003.

On 17 December 2004, a decision was mailed dismissing applicants' renewed petition under 37 CFR 1.47(a). Specifically, it was noted that factual proof that the missing joint inventor could not be reached after diligent effort had not been provided.

On 28 January 2005, applicants submitted the instant second "Renewed Petition Under 37 CFR 1.47(a)" which was accompanied by a declaration of inventors signed by the previously non-signing inventor Mr. Baohua Han.

DISCUSSION

Since a 37 CFR 1.497 declaration has been executed by all the joint inventors, the renewed petition for status under 37 CFR 1.47(a) is moot. The application need not be returned to the Office of PCT Legal Affairs for any further consideration of the status under 37 CFR 1.47 and no such status should be indicated on this application file.

The declarations of inventors filed 28 July 2003 and 28 January 2005 are in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** as **MOOT**.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **28 January 2005**.

Daniel Stemmer
Legal Examiner

PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

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Pepper Hamilton LLP
400 Berwyn Park
899 Cassatt Road
Berwyn, PA 19312-1183

MAILED

JUL 09 2010

OFFICE OF PETITIONS

In re Patent of David B. Weiner et al.	:	DECISION ON REQUEST
Patent No. 7,488,484	:	FOR RECONSIDERATION OF
Issue Date: February 10, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/312,197	:	AND NOTICE OF INTENT TO
Filing Date: May 16, 2003	:	ISSUE CERTIFICATE OF
Attorney Docket No. 133171.01201	:	CORRECTION

This is a decision on the petition filed April 8, 2009, and supplemented August 6, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by at least one thousand four hundred seventy-three (1473) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by at least one thousand four hundred seventy-three (1473) days is **GRANTED to the extent indicated herein**.

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.

When the Office issued the patent, the Office revised the patent term adjustment to include an increase of 316 days for delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay"). Petitioners appear to contend the Office should have included an increase of 1,001 days for B Delay.

The petition states:

Date of Filing:	May 16, 2003
Three Year Anniversary of Pendency:	May 16, 2006
Date of Issuance:	February 10, 2009
Days between [Three-Year Date and Issuance]:	1001

Subject to some exceptions, 35 U.S.C. § 154(b)(1)(B) provides for a patent term adjustment when the Office issues a patent more than "3 years after the actual filing date of the application in the United States." In the case of an international application, the phrase "actual filing date of the application in the United States" means the date the national stage commenced under 35 U.S.C. 371(b) or (f). *See Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term*, 65 Fed. Reg. 56366, 56382-84, (Sept. 18, 2000), 1239 Off. Gaz. Pat. Office 14, 28-30 (Oct. 3, 2000).

In this case, the national stage commenced January 14, 2003. Therefore, the period of B Delay, *prior to* excluding any time period consumed by appellate review, is 1,123 days, which is the number of days beginning January 15, 2006, the day after the date three years after the date of commencement, and ending on February 10, 2009, the date of issuance.[1]

Pursuant to 35 U.S.C. § 154(b)(1)(B)(ii), B Delay does not include any time period consumed by appellate review. Therefore, B Delay does not include the 94 days consumed by appellate review as a result of the Notice of Appeal filed June 30, 2008.

After the exclusion of the time period consumed by appellate review, B Delay is 1,029 days.

35 U.S.C. § 154(b)(2)(A) limits Office delay to the sum of delay under 35 U.S.C. § 54(b)(1)(A) ("A Delay") and B Delay to the extent such periods of delay are not overlapping. In this case, the number of days of overlap between the period of A Delay and the period of B Delay is 44 days.

In view of the prior discussion, the patent term adjustment is 1,457 days, which is the sum of 685 days of A Delay and 1,029 days of B Delay reduced by 44 days of overlapping A Delay and B Delay and reduced by 213 days of Applicant Delay..

The Office has charged the $200.00 fee set forth in 37 C.F.R. § 1.18(e) to Deposit Account No. 50-0436 as authorized in the petition.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **one thousand four hundred fifty-seven (1457)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

[1] The instant case does not contain any time periods falling under 35 U.S.C. §§ 154(b)(1)(B)(i) or (iii).

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,488,484 B2
APPLICATION NO.	:	10/312,197
DATED	:	February 10, 2009
INVENTOR(S)	:	David B. Weiner et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the Title page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 788 days.

Delete the phrase "by 788 days" and insert -- by 1457 days--

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 08/03/2010

Applicant	: Daniel Mormont	: DECISION ON REQUEST FOR
Patent Number	: 7658983	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/312,214	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/20/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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RICHARD A. FAGIN
P.O. BOX 1247
RICHMOND TX 77406-1247

MAILED

APR 2 6 2010

OFFICE OF PETITIONS

In re Patent No. 6,913,079	:	
Issue Date: July 5, 2005	:	
Application No. 10/312,235	:	ON PETITION
Filed: December 23, 2002	:	
Attorney Docket No. ZIE-10-02	:	

This is a decision on the petition under 37 CFR 1.378(c), filed February 16, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on July 6, 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 Kimberly Inabinet at (571) 272-4618.

The patent file is being forwarded to Files Repository.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

Finance

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FEB 16 2010

PTO/SB/68 (03-09)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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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)
ZIE-10-02

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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.

03/03/2010 DALLEN 00000010 6913079
01 FC:1599 2130.00 OP

Patent No. 6913079

Application Number 10/312,235

Issue Date 07/05/2005

Filing Date 12/23/2002

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 that fees are associated with the correct patent. 37 CFR 1.366(c) and (d).

Adjustment date: 03/08/2010 DALLEN
03/03/2010 DALLEN 00000010 6913079
01 FC:1599 -2130.00 OP

Also complete the following information, if applicable

03/04/2010 DALLEN 00000001 6913079
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 PCT/US01/41165

filed on June 26, 2001

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.

16 FEB 2010
Date

Richard A Fagin
Signature

RICHARD A FAGIN
Typed or Printed Name of Person Signing Certificate

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.

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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 $ _____

☐ 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. _____

PAGE 3/9 * RCVD AT 2/16/2010 11:49:08 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/46 * DNIS:2738300 * CSID: * DURATION (mm-ss):03-56

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/21/07

TO SPE OF : ART 2852

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/312237** Patent No.: **7245866**

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** 2852

30 JUL 2004

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YOUNG & THOMPSON
745 South 23RD Street
Arlington, VA 22202

In re Application of HELLBERG, Kennet U.S. Application No.: 10/312,253 PCT No.: PCT/SE02/01483 Int. Filing Date: 21 August 2002 Priority Date: 26 September 2001 Attorney Docket No.: 1510-1032 For: LOCK MECHANISM ON A PROSTHETIC DEVICE	:	**DECISION**

This decision is in response to applicant's "Request for Refund" filed on 13 July 2004 which is hereby **GRANTED** as follows:

A review of USPTO records indicate that a national stage case (U.S. Application No. 10/312,253, docket number 1510-1032) was filed for PCT/SE02/01483 on 24 December 2002.

On 26 March 2004, applicant filed duplicate papers (attorney docket number 1510-1086) to enter the national stage for PCT/SE02/01483. This is not possible since only one national stage application may be filed for an international application.

The $1,210.00 in fees for docket number 1510-1086 were placed in U.S. application No. 10/490,947, which is an inactive application. These fees will be credited to Deposit Account No. 25-0120 as requested. Applicant is advised to use only 10/312,253 as the national stage application number for PCT/SE02/01483.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

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DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York NY 10008-0770

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FEB 0 4 2008

OFFICE OF PETITIONS

In re Patent No. 7,195,653	:	
Issue Date: March 27, 2007	:	
Application No. 10/312,263	:	ON PETITION
Filed: February 5, 2003	:	
Attorney Docket No. 2292/0M384	:	

This is a decision on the petition filed September 6, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

David Bucci
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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JUL 14 2004

Paper No. 7

In re Application of
Bryan Johnson *et al*
Application No. 10/312,265
Filed: December 23, 2002
Attorney Docket No. 19978.0001

DECISION ON PETITION

This is a decision on the petition filed by facsimile transmission on May 12, 2004 by which petitioners request withdrawal of the holding that this application stands abandoned for failure to file a timely and proper reply to the Office action dated September 3, 2003. The petition is being considered pursuant to 37 CFR 1.181, and no fee is required for the petition.

The petition is granted.

Petitioners allege that the application is not abandoned because a timely and proper reply to the Office letter in question was in fact filed on November 17, 2003. Petitioners have supported this allegation by furnishing a copy of the reply and a copy of a post card receipt showing that the reply was in fact received in the Office on November 17, 2003, a date within the time set for filing a reply to the Office letter in question. Based upon this evidence, this application is not abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for entry of the reply filed on November 17, 2003, and will thereafter be forwarded to the examiner for appropriate action.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Daniel J. Warren
Sutherland Asbill & Brennan
999 Peachtree St N.E.
Atlanta, GA 30309-3996

09 NOV 2004

43

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William E. Vaughan
BELL, BOYD & LLOYD
PO Box 1135
Chicago, Illinois 60690-1135

In re Application of:	:	
BAR, Siegfried, et al.	:	
U.S. Application No.: 10/312,271	:	DECISION ON PETITION
PCT No.: PCT/DE01/02289	:	
International Filing Date: 20 June 2001	:	
Priority Date: 20 June 2000	:	
Attorney's Docket No.: 112740-774	:	
For: METHOD FOR TRANSMITTING	:	
SHORT MESSAGES	:	

This decision is issued in response to applicants' "Petition Under 37 CFR 1.182" filed 25 October 2004 under application number 10/221,469, treated herein as a petition under 37 CFR 1.181. No petition fee is required; the $130 petition fee submitted by applicants will be refunded to Deposit Account No. 02-1818.

BACKGROUND

On 20 June 2001, applicants filed international application PCT/DE01/02289 which claimed a priority date of 10 June 2002 and which designated the United States. On 27 December 2001, a copy of the international application was communicated to the United States Patent And Trademark Office (USPTO) by the International Bureau (IB). The deadline for payment of the basic national fee was thirty months from the priority date, i.e., 20 December 2002.

On 20 December 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment for the basic national fee, a substitute specification, and a purported English translation of the international application.

On 25 October 2004, applicants filed the petition considered herein. The petition includes a copy of the materials originally filed 20 December 2002, and a copy of a return postcard itemizing these materials and bearing a USPTO receipt stamp dated 20 December 2002 and the U.S. application number 10/221,469. The petition notes that applicants have received no subsequent communications with respect to this application, and that they were informed by the USPTO that the application number stamped on the return postcard, 10/221,469, was assigned to a separate application. The petition requests that the materials filed 20 December 2002 be properly assigned a U.S. application number and moved forward for examination.

DISCUSSION

The papers originally filed by applicants on 20 December 2002 were originally assigned by the USPTO to application number 10/221,469, an application which had been mistakenly established as the U.S. national stage for international application PCT/DE01/02289. This situation has subsequently been corrected, with the papers filed by applicant on 20 December 2002 being assigned U.S. application number 10/312,271 and placed in such application file.

U.S. application number 10/312,271 has been established as the U.S. national stage of international application PCT/DE01/02289, and the papers filed by applicants on 20 December 2002 are present in such file. These papers bear a USPTO receipt stamp confirming the 20 December 2002 filing date, and are proceeding for processing. Accordingly, applicants' present petition is moot.

A review of the papers filed by applicants on 20 December 2002 reveals that the English translation of the international application is defective. Specifically, it does not appear that applicants have provided a translation of the complete application as originally filed (the translation provided includes pages labeled as "Amended Sheets," and is not accompanied by a translation of such pages pre-amendment, i.e., a translation of the original 11 claims).

CONCLUSION

Applicant's petition is **MOOT.** The petition fee filed by applicant will be refunded to Deposit Account No. 02-1818.

Application number 10/312,271 is the U.S. national stage of international application PCT/DE01/02289 and contains the papers filed by applicants on 20 December 2002 (copies of which were attached to the present petition). The present petition has been placed in application number 10/312,271, and all further correspondence with respect to this application should be submitted under application number 10/312,271.

The application has been forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring submission of an executed oath or declaration in compliance with 37 CFR 1.497, a complete English translation of the international application as originally filed, and the related surcharge and processing fee.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

#6

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01 DEC 2005

William E. Vaughan
BELL BOYD & LLOYD
PO Box 1135
Chiacgo, IL 60690-1135

In re Application of:	:	
Bar, Siegfried, et al.	:	DECISION ON PETITION
Application No.: 10/312,271	:	
PCT No.: PCT/DE01/02289	:	
Int. Filing Date: 20 June 2001	:	
Priority Date: 20 June 2000	:	
Attorney Docket No.: 112740-774	:	
For: METHOD FOR TRANSMITTING SHORT MESSAGES	:	

This decision is issued in response to applicants' "Submission Of Formal Papers In Response To Missing Papers At USPTO" filed 29 November 2005, treated herein as a petition under 37 CFR 1.181 to confirm the 07 April 2005 filing of a response to the Notification Of Missing Requirements. No petition fee is required.

BACKGROUND

The background for the present application was set forth in detail in the decision mailed herein on 09 November 2004. That decision informed applicants that the present application (10/312,271) was the national stage application of PCT/DE01/02289. The decision also noted that the translation of the international application filed by applicants was defective.

On 07 December 2004, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that applicants were required to submit: (1) an English translation of the international application; (2) the processing fee for filing the translation later than thirty months after the priority date; (3) an oath or declaration in compliance with 37 CFR 1.497; and (4) the surcharge for filing the oath or declaration later than thirty months after the priority date.

On 29 November 2005, applicants filed the "Submission Of Formal Papers In Response To Missing Papers At USPTO" considered herein as a petition under 37 CFR 1.181. The petition includes a copy of materials purportedly filed by applicants on 07 April 2005 as a response to the Notification Of Missing Requirements, and it is accompanied by a copy of a return postcard that itemizes the materials and bears a USPTO receipt stamp dated 07 April 2005.

DISCUSSION

Based on applicants' statements, the itemized return postcard bearing the USPTO receipt stamp, and USPTO records which confirm receipt on 07 April 2005 of the surcharge, processing fee, and extension fee, it is concluded that the materials attached to the present petition (including the executed declaration and English translation of the international application, and the referenced fee payments) were filed in the USPTO on 07 April 2005. Based on the extension fee included with such submission, the materials are considered a timely response to the Notification Of Missing Requirements mailed 07 December 2005.

The materials filed on 07 April 2005 included the required declaration, English translation of the international application as filed, surcharge and processing fee. Accordingly, the proper date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) for this application is 07 April 2005.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

The materials attached to the present petition, including the executed declaration and the English translation of the international application, are treated as having been filed on 07 April 2005.

This application is being referred to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 07 April 2005.

Richard M. Ross
PCT Petitions Attorney
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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ARTHUR A. BOOKSTEIN
K&L GATES LLP
STATE STREET FINANCIAL CENTER
ONE LINCOLN STREET
BOSTON, MA 02111-2950

MAILED

MAY 12 2009

OFFICE OF PETITIONS

In re Application of	:	
Kessler et al.	:	DECISION ON PETITION
Application No. 10/312,275	:	TO WITHDRAW
Filed: July 31, 2003	:	FROM RECORD
Attorney Docket No. 1016710022P	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 26, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on June 21, 2006 the power of attorney to K&L Gates LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Rutan & Tucker, LLP.
611 Anton Blvd
Suite 1400
Costa Mesa CA 92626

03 JAN 2003

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#3

Li-Hsien Rin-Laures
HYSEQ, INC.
670 Almanor Avenue
Sunnyvale, CA 94085

In re Application of BOYLE et al	:	
U.S. Application No.: 10/312,281	:	DECISION ON PETITION
Int. Application No.: PCT/US00/35158	:	
Int. Filing Date: 22 December 2000	:	UNDER 37 CFR 1.137(b)
Priority Date: 23 December 1999	:	
Attorney Docket No.: HYS-23CIP/US	:	
For: METHODS AND MATERIALS RELATING TO SEMAPHORIN-LIKE POLYPEPTIDES AND POLYNUCLEOTIDES	:	

This is in response to applicant's "Petition Under 37 C.F.R. 1.137(b) for Revival of an Unintentionally Abandoned International Patent Application Designating the U.S." filed 17 December 2002.

BACKGROUND

On 22 December 2000, applicant filed international application PCT/US00/35158, which claimed priority of an earlier United States application filed 23 December 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 26 July 2001.

International application PCT/US00/35158 became abandoned as to the United States for failure to timely pay the basic national fee.

On 17 December 2002, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless

previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), although the petition provides authorization to charge Deposit Account No. 50-1169 for the basic national fee, the deposit account lacks sufficient funds.

With regard to item (2), although the petition provides authorization to charge Deposit Account No. 50-1169 for the petition fee, the deposit account lacks sufficient funds.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

Because applicant has failed to satisfy items (1) and (2) above, the petition under 37 CFR 1.137(b) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)".

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, and address the contents of the letter to the attention of the PCT Legal Office.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

22 APR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

#5

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Li-Hsien Rin-Laures
HYSEQ, INC.
670 Almanor Avenue
Sunnyvale, CA 94085

In re Application of BOYLE et al	:	
U.S. Application No.: 10/312,281	:	DECISION ON PETITION
Int. Application No.: PCT/US00/35158	:	
Int. Filing Date: 22 December 2000	:	UNDER 37 CFR 1.137(b)
Priority Date: 23 December 1999	:	
Attorney Docket No.: HYS-23CIP/US	:	
For: METHODS AND MATERIALS RELATING TO SEMAPHORIN-LIKE POLYPEPTIDES AND POLYNUCLEOTIDES	:	

This is in response to applicant's "Renewed Petition Under 37 C.F.R. 1.137(b) for Revival of an Unintentionally Abandoned International Patent Application Designating the U.S." filed 03 April 2003.

BACKGROUND

On 22 December 2000, applicant filed international application PCT/US00/35158, which claimed priority of an earlier United States application filed 23 December 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 26 July 2001.

International application PCT/US00/35158 became abandoned as to the United States for failure to timely pay the basic national fee.

On 17 December 2002, applicant filed a petition under 37 CFR 1.137(b).

On 03 January 2003, this Office mailed a decision dismissing the 17 December 2002 petition for failure to provide the requisite fees.

On 03 April 2003, applicant filed the present renewed petition.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless

previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), the renewed petition provides authorization to charge Deposit Account No. 50-1169 for the requisite basic national fee.

With regard to item (2), the petition provides authorization to charge Deposit Account No. 50-1169 for the requisite petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be submitted.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

03 AUG 2004

#14

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LEYDIG VOIT & MAYER, LTD
700 THIRTEENTH ST. NW
SUITE 300
WASHINGTON DC 20005-3960

In re Application of	:	DECISION ON
Vladimir KHAVINSON	:	
Application No.: 10/312,291	:	
PCT No.: PCT/RU01/00256	:	PETITION UNDER
Int. Filing Date: 26 June 2001	:	
Priority Date: 29 June 2000	:	37 CFR 1.181
Attorney's Docket No.: 402415/BRAUN	:	
For: METHOD OF OBTAINING PEPTIDES WITH ...	:	
ON THEIR BASIS	:	

This Decision is in response to applicant's "REQUEST TO WITHDRAW ERRONEOUS HOLDING OF ABANDONMENT OR, IN THE ALTERNATIVE, PETITION TO ... 37 C.F.R §1.137(b) " filed on 24 February 2004 that the above-identified application was improperly held abandoned because the response was timely filed. The petition requests the withdrawal of the abandonment mailed on 19 February 2004. The petition fee of $665.00 has been refunded to applicant's Deposit Account 12-1216.

BACKGROUND

On 26 June 2001, this international application was filed, claiming an earliest priority date of 29 June 2000. A copy of the international application was communicated by the International Bureau to the United States Patent and Trademark Office on 03 January 2002.

On 24 December 2002, applicant filed a Transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371 (c)(1). An executed declaration as required by 35 U.S.C. 371(c)(4) was submitted on such date.

On 22 May 2003, the United States Designated/Elected Office mailed a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495 indicating that 371 (c)(1), (c)(2), and (c)(4) date is 24 December 2002.

On 29 May 2003, the United States Designated/Elected Office mailed a Notification to Comply with Requirements for Patent Applications containing Nucleotide and/or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922) indicating that applicant must provide, *inter alia*, an initial or substitute computer readable form (CFR) of the "Sequence Listing.' The notification set two (2) months time limit and that extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

On 28 August 2003, applicant filed a submission of Sequence Listing in the form of both a paper copy and a computer readable copy on a computer diskette.

On 16 December 2003, the DO/EO/US mailed a "NOTIFICATION OF DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) which indicated that this application does not comply with the requirements for such a disclosure as set forth in 37 CFR 1.821-1.825 for the following reason(s): A copy of the "Sequence Listing' in computer readable form has been submitted. The content of the computer readable form, however, does not comply with the requirements of Annex C of the Administrative Instructions and 37 CFR 1.822 and/or 1.832, as indicated on the attached marked-up copy of the "Raw Sequence Listing."

On 19 February 2004, the DO/EO/US mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909), which indicated that applicant had failed to respond to the NOTIFICATION OF DEFECTIVE RESPONSE within the one month time limit.

In response to the "NOTIFICATION OF ABANDONMENT" mailed on 19 February 2004, applicant filed on 24 February 2004 the instant petition requesting withdrawal of the Notice of Abandonment. In support of the petition, applicant has provided a copy of the certificate of mailing sheet dated 15 January 2004.

DISCUSSION

Applicants have submitted copies of the Sequence Listing, which was the response to the Notification of Missing Requirements mailed 16 December 2003. The postcard is stamped with a OPIE date of January 20, 2004. In view of this evidence it is concluded that the aforementioned item was received on January 20, 2004. However, the response has a certificate of mailing of 15 January 2004. Since the certificate of mailing letter has a date of 15 January 2004, the submission is considered as having been timely filed.

Accordingly, applicant's response, the sequence listing filed on 15 January 2004, is considered timely and has been entered by the USPTO. Accordingly, the instant application has been improperly abandoned.

Since applicant's response is timely, there is no need to analyze the submission under 37 CFR 1.137(b), and applicant's petition fee has been refunded.

DECISION

Applicant's request to withdraw the "NOTIFICATION OF ABANDONMENT" is **GRANTED**. The NOTIFICATION OF ABANDONMENT, mailed 19 February 2004 has been **VACATED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459

Leonard Smith
PCT Legal Examiner
PCT Legal Office

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KIRSCHSTEIN, OTTINGER, ISRAEL
& SCHIFFMILLER, P.C.
489 FIFTH AVENUE
NEW YORK NY 10017

In re Application of	:	
Stuart C. Wray et al	:	
Application No. 10/312,304	:	ON PETITION
Filed: April 10, 2003	:	
Attorney Docket No. P/62127-PCT	:	

This is a decision on the petition, filed October 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 September 18, 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 2113 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : October 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) :Stuart C. Wray et al
Application No. :10/312,304
Filed :April 10, 2003

The above-identified application has been assigned Patent No. 7,127,634 and an issue date of October 24, 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 October 24, 2006:

"All reference to Patent No. 7,127,634 to Stuart C. Wray et al of United Kingdom for COMMUNICATIONS SYSTEM FOR AND METHOD OF RECOVERING FROM COMMUNICATIONS FAILURE appearing in the Official Gazette of October 24, 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

#3

21 APR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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Li-Hsien Rin-Laures
Hyseq, Inc.
670 Almanor Avenue
Sunnyvale, CA 94085

In re Application of BOYLE et al	:	
U.S. Application No.: 10/312,308	:	
Int. Application No.: PCT/US01/02612	:	DECISION ON PETITION
Int. Filing Date: 25 January 2001	:	
Priority Date: 25 January 2000	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: HYS-30CIP/US	:	
For: METHODS AND MATERIALS RELATING TO	:	
HEMATOPOIETIC CYTOKINE-LIKE	:	
POLYPEPTIDES AND POLYNUCLEOTIDES	:	

This is in response to applicant's "Petition Under 37 C.F.R. 1.137(b) for Revival of an Unintentionally Abandoned International Patent Application Designating the U.S." filed 19 December 2002.

BACKGROUND

On 25 January 2001, applicant filed international application PCT/US01/02612, which claimed priority of an earlier United States application filed 25 January 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 16 August 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 25 July 2002.

International application PCT/US01/02612 became abandoned as to the United States for failure to timely pay the basic national fee.

On 19 December 2002, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless

previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be submitted.

Bryan Tung
PCT Legal Examiner
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#3

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02 JUN 2003

LI-HSIEN RIN-LAURES
HYSEQ, INC.
670 ALMANOR AVENUE
SUNNYVALE, CA 94085

In re Application of	:	
GODBOLE et al.	:	
Application No.: 10/312,309	:	DECISION ON
PCT No.: PCT/US01/03832	:	
Int. Filing Date: 05 February 2001	:	PETITION UNDER
Priority Date: 03 February 2000	:	
Attorney Docket No.: HYS-31CIP2/US	:	37 CFR 1.137(b)
For: METHODS AND MATERIALS RELATING	:	
TO ALPHA-2 MACROGLOBULIN LIKE	:	
POLYPEPTIDES AND POLYNUCLEOTIDES	:	

This decision is in response to applicant's "PETITION UNDER 37 C.F.R. 1.137(b) FOR REVIVAL OF AN UNINTENTIONALLY ABANDONED INTERNATIONAL PATENT APPLICATION DESIGNATING THE U.S." filed 19 December 2002.

BACKGROUND

On 05 February 2001, applicant filed international application PCT/US01/03832, which designated the United States and claimed a priority date of 03 February 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 09 August 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 22 August 2001, which was within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 05 August 2002 (03 August 2002 being a Saturday).

On 19 December 2002, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, an assertion of small entity status, and the instant "PETITION UNDER 37 C.F.R. 1.137(b) FOR REVIVAL OF AN UNINTENTIONALLY ABANDONED INTERNATIONAL PATENT APPLICATION DESIGNATING THE U.S."

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee for a small entity on 19 December 2002.

As to item (2), applicant submitted the petition fee for a small entity on 19 December 2002.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date are required.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
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05 JAN 2004

#6

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Li-Hsien Rin-Laures
NUVELO, INC (formerly HYSEQ-INC.)
670 Almanor Avenue
Sunnyvale, CA 94085

In re Application of	:	
GODPOLE, Shubhada D. *et al*	:	
U.S. Application No.: 10/312,309	:	
PCT No.: PCT/US01/03832	:	
Int. Filing Date: 05 February 2001	:	
Priority Date: 03 February 2000	:	**DECISION**
Attorney Docket No.: HYS-31CIP2/US	:	
For: METHODS AND MATERIALS	:	
RELATING TO ALPHA-2-	:	
MACROGLOBULIN LIKE	:	
POLYPEPTIDES AND	:	
POLYNUCLEOTIDES	:	

This decision is in response to the "Petition for Filing When an Inventor is Uncooperative Under 37 CFR 1.47(a)" filed 02 October 2003.

BACKGROUND

On 17 July 2003, the United States Designated/Elected Office mailed a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath/declaration in compliance with 37 CFR 1.497(a) and (b) and a $65.00 surcharge fee must be provided. Applicants were given two months to respond with extensions of time available under 37 CFR 1.136(a).

On 02 October 2003, applicants submitted the instant petition which was accompanied by, *inter alia*, a declaration signed by ten of the eleven joint inventors; a $130.00 petition fee; a one-month extension request and $55.00 extension fee; a $65.00 surcharge fee; a copy of a Federal Express Invoice; and authorization to charge all required fees to Deposit Account No. 50-1169.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor refuses to execute the application or cannot be found or reached after diligent effort; (3) a statement of the last known address of the missing joint inventor; (4) and an oath or declaration executed by the signing joint inventor on his behalf and on behalf of the non-signing joint inventor. Applicants completed items (1) and (3).

Concerning item (1), the $130.00 petition fee has been charged to Deposit Account No. 50-1169 as authorized.

With regard to item (3), applicants satisfy this requirement by listing the last known address of the nonsigning co-inventor, Mr. Shubhada D. Godbole as:

1013 Wood Duck Avenue
Santa Clara, CA 95051

Concerning item (4) of 37 CFR 1.47(a), petitioners included a declaration signed by ten of the eleven joint inventors. All of the joint inventors' names, residences, post office addresses and citizenship are recorded on the declaration as required by section 409.03(a) of the Manual of Patent Examining Procedure (MPEP). The declaration is also in compliance with 37 CFR 1.497(a) & (b).

Therefore, items (1), (3) and (4) are satisfied.

Regarding item (2) of 37 CFR 1.47(a), applicants claim that Mr. Godbole is uncooperative. Section 409.03(d) of the MPEP states, in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. . . . It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning

inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Here, there is no evidence that Mr. Godbole was presented with a complete copy of the application, including specification, claims and drawings as required. The petitioner only indicated that "Mr. Godbole acknowledged receipt of one (1) Declaration and Power of Attorney document." As stated above, petitioners must demonstrate that Mr. Godbole received a complete copy of the above-captioned application. Moreover, any relevant documentary evidence should be submitted with the renewed petition.

Accordingly, petitioners have not met the requirements of item (2) of 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
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18 MAR 2004

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Li-Hsien Rin-Laures
NUVELO, INC (formerly HYSEQ-INC.)
670 Almanor Avenue
Sunnyvale, CA 94085

In re Application of GODPOLE, Shubhada D. *et al* U.S. Application No.: 10/312,309 PCT No.: PCT/US01/03832 Int. Filing Date: 05 February 2001 Priority Date: 03 February 2000 Attorney Docket No.: HYS-31CIP2/US For: METHODS AND MATERIALS RELATING TO ALPHA-2-MACROGLOBULIN LIKE POLYPEPTIDES AND POLYNUCLEOTIDES	**DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)**

This decision is in response to the "Response to Decision on Petition" filed via facsimile on 05 March 2004. No fee is required.

BACKGROUND

On 05 January 2004, a decision dismissing applicants' renewed petition was mailed because they failed to satisfy item (2) of 37 CFR 1.47(a).

On 05 March 2004, applicants submitted the instant response which was accompanied by, *inter alia*, an executed declaration signed by the nonsigning joint inventor.

DISCUSSION

In the renewed petition under 37 CFR 1.47(a), applicants filed a declaration signed by the nonsigning joint inventor, Shubhada D. Goodbole.

CONCLUSION

Since the nonsigning co-inventor has been located and executed a declaration, applicants' renewed petition under 37 CFR 1.47(a) is **DISMISSED** as **MOOT**.

A review of the declaration filed with the instant petition reveals that it is in compliance with 37 CFR 1.497(a) and (b).

Applicants have completed the requirements for acceptance under 35 U.S.C.

371(c). The application has an international filing date of 05 February 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 05 March 2003.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

25 JUN 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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Li-Hsien Rin-Laures
HYSEQ, INC.
670 Almanor Avenue
Sunnyvale, CA 94085

In re Application of	:	DECISION ON
Hyseq, Inc.	:	
Application No.: 10/312,311	:	
PCT No.: PCT/US01/03653	:	PETITION UNDER
Int. Filing Date: 02 February 2001	:	
Priority Date: 03 February 2000	:	
Attorney's Docket No.: HYS-26CIP/US	:	37 CFR 1.137(b)
For: Methods and Materials ... Polynucleotides	:	

This decision is in response to applicants' "Petition Under 37 CFR 1.137(b) for Revival of an Unintentionally Abandoned International Patent Application Designating the U.S.," filed on 19 December 2002.

BACKGROUND

On 02 February 2001, this international application was filed, claiming an earliest priority date of 03 February 2000. A copy of the intentional application was transmitted on 09 August 2001 to the USPTO from the International Bureau.

A Demand electing the United States was filed in this international application on 22 August 2001. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 03 August 2002. This international application became abandoned with respect to the United States at midnight on 03 August 2002 for failure to pay the required basic national fee.

On 19 December 2002, applicants filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by, the petition fee, basic national fee. No executed declaration or oath was submitted on such time.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a

grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing.

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05 JUN 2003

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Li-Hsien Rin Laures
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In re Application of	:	
YAMAZAKI et al.	:	
Application No.: 10/312,312	:	DECISION ON PETITION
PCT No.: PCT/US00/34983	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 22 December 2000	:	
Priority Date: 23 December 1999	:	
Attorney Docket No.: HYS-37CIP/US	:	
For: METHODS AND MATERIALS RELATING TO G PROTEINS-COUPLED RECEPTORS-LIKE POLYPEPTIDES AND POLYNUCLEOTIDES		

The petition to revive under 37 CFR 1.137(b) filed 19 December 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have submitted the basic national fee of $355 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

Deposit Account No.50-1169 has been charged a $1300.00 petition fee under 37 CFR 1.17(m).

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing.

Anthony Smith

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15 SEP 2003

Michael A. Glenn
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In re Application of :
HEUER et al. :
Application No.: 10/312,322 : DECISION ON PETITION
PCT No.: PCT/EP01/06600 : UNDER 37 CFR 1.181
Int. Filing Date: 11 June 2001 :
Priority Date: 20 June 2000 :
Attorney Docket No.: SCHO0091 :
For: CONTROLLING THE COMMUNICATION IN CONDITIONAL ACCESS AND ACCESS CONTROL SYSTEMS

This is in response to "Response to Notification of Missing Requirements under 35 U.S.C. 371" filed 25 June 2003, which is being treated as a petition under 37 CFR 1.181 to reset the period for response set in the Notification of Missing Requirements mailed 06 March 2003.

BACKGROUND

On 11 June 2001, applicants filed international application PCT/EP01/06600, which claimed priority date of 20 June 2000. A copy of the international application was received by the United States Patent and Trademark Office from the International Bureau on 27 December 2001. A Demand was filed with the International Preliminary Examination Authority. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 20 December 2002.

On 20 December 2002, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia,: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a preliminary amendment; and an unexecuted declaration.

On 06 March 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497(a) and (b).

On 25 June 2003, applicants filed the present response requesting the Patent Office to waive "any additional fee required to rectify this type of situation" because the Notice of Missing Requirements was "not received until June 2, 2003." Applicant has filed a copy of the Notice of Missing Requirements, a copy of a letter from the law firm of Patton Boggs;

and the envelope that the Missing Requirements was mailed in. The Notice of Missing Requirements and the letter from the law firm of Patton Boggs have applicants receipts stamp indicating that the Notice was received on 02 June 2003. The envelope was postmarked 30 May 2003.

DISCUSSION

A. Request to Reset the Previously Set Response Period

Petitioner states that Notification of Missing Requirements was not received until after the response due date. For these situations, the United States Patent and Trademark Office (USPTO) set forth guidelines for restarting the period at 1160 OG 14, which have been incorporated into the MPEP. Section 710.06 of the MPEP states, a petition requesting restarting a previously set response period due to the late receipt of an office action will be granted when:

> (A) the petition is filed within two weeks of the actual receipt date of the office action;
> (B) a substantial portion of the set response period has elapsed as of the date of receipt of the office action; and
> (C) the petition includes: (1) evidence showing the date of receipt of the Office action at the correspondence address (e.g., a copy of the Office action having the date of receipt of the Office action at the correspondence address stamped thereon, a copy of the envelope (which contained the Office action) having the date of receipt of the Office action at the correspondence address stamped thereon, etc.), and (2) a statement setting forth the date of receipt of the Office action at the correspondence address and explaining how the evidence being presented establishes the date of receipt of the Office action at the correspondence address satisfactory evidence of the date of receipt together with a satisfactory statement explaining the evidence is furnished.

In this case, applicant has not acted within the two-week period set forth in the notice. Since, the applicant did not act within the two-week period, the period to respond cannot be reset.

The period to respond to the Notification of Missing Requirements was due on or before 06 May 2003. However, pursuant to the provisions of 37 CFR 1.136(a), extensions of time were available through 06 November 2003. The above petition was received on 25 June 2003, before expiration of the extendable time period provided by 37 CFR 1.136(a). Accordingly, since extensions of time were available at the time the response was filed, Deposit Account No. 08-2460 will be charged a two-month extension of time.

B. Defective Declaration

The declaration filed with the present request is defective. Specifically, the declaration has not been executed by the fifth joint inventor, Rolf Lakomy. Additionally, the declaration has been properly executed. The declaration executed by Andre Heuer is missing pages 4 of 5 and 5 of 5 and therefore is incomplete as it does not contain a complete listing of all inventors. (See MPEP 201.03.) Therefore, applicants are required to file a newly executed declaration which complies with 37 CFR 1.497(a) and (b).

CONCLUSION

For the reasons discussed above, applicant's request restart the previously set response period set in the Notification of Missing Requirements is DISMISSED without prejudice.

A proper response must be filed within **ONE MONTH** from the mail date of this decision and must include a proper declaration in compliance with 37 CFR 1.497(a)-(b) executed by all of the named inventors. No extensions of this time limit may be obtained under 37 CFR 1.136(a), but the period for response set forth in the Notification of Missing Requirements mailed 06 March 2003 may be extended up to a maximum of five months.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith

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15 MAR 2005

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James Remenick
Morrison & Foerster, LLP
1650 Tysons Boulevard
Suite 300
McLean, VA 22102

In re Application of	:	
PITSON, et al.	:	DECISION ON PETITION
Application No.: 10/312,336	:	
PCT No.: PCT/AU01/00730	:	UNDER 37 CFR 1.137(b)
Filing Date: 26 December 2002	:	
Atty. Docket No.: 229752002400	:	
For: NOVEL THERAPEUTIC MOLECULAR	:	
VARIANTS AND USES THEREOF	:	

This decision is in response to applicant's "Petition Under 37 C.F.R. § 1.137(b) to Revive Application Unintentionally Abandoned" filed 12 March 2004 and "Status Inquiry" filed 26 January 2005 in the United States Patent and Trademark Office (USPTO).

The petition to revive under 37 CFR 1.137(b) filed 12 March 2004 in the above-captioned application is hereby **DISMISSED** as follows:

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). Applicant has satisfied items (2) - (4) above.

However, with regard to item (1), the proper response was the required sequence listing pursuant to 37 CFR 1.821-1.825. It is clear from the supplied return postcard that applicant filed a computer readable form of the sequence listing with the petition on 12 March 2004. However, the disk is not in the application file nor is there any indication that it has been examined by the Biotechnology Systems Branch of the Scientific and Technical Information Center (STIC). Since it can't be determined that the disk provided on 12 March 2004 was compliant the petition for revival cannot be granted at this time and the application remains abandoned.

CONCLUSION

Applicant's petition under 37 CFR 1.137(b) is **DISMISSED**.

This application remains abandoned as to the United States of America.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." No additional petition fee is required.

Please direct further correspondence with respect to this matter to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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13 OCT 2006

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Commissioner for Patents
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Jonathan Bockman
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McLean, VA 22102

In re Application of	:	
PITSON, et al.	:	DECISION ON RENEWED
Application No.: 10/312,336	:	
PCT No.: PCT/AU01/00730	:	PETITION UNDER
Int. Filing Date: 20 June 2001	:	
Priority Date: 28 June 2000	:	37 CFR 1.137(b)
Atty. Docket No.: 229752002400	:	
For: NOVEL THERAPEUTIC MOLECULAR	:	
VARIANTS AND USES THEREOF	:	

The renewed petition to revive under 37 CFR 1.137(b) filed 19 July 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant has provided a statement explaining the period of delay from the dismissed petition mailed 15 March 2005 until the filing of this renewed petition. Applicant's statement and the prompt filing of the renewed petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided compliant computer readable format of the sequence listing. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

The application has an international filing date of 20 June 2001 under 35 U.S.C. 363 and will be given a date of **19 August 2003** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06-10-08

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/312341** Patent No.: **7348310**

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: Amendments to Claim 9, Col. 235, line 60, and to Claim 18, Col. 236, lines 14-15, do not apply. The proposed changes are inconsistent with the structuures and/or terminology recited in the independent claim. Also, the proposed claim 18 amendment does not use numeral subscripts.

Cecilia J. Tsang
Supervisory Patent Examiner
Technology Center 1600

SPE

1654
Art Unit

2 6 MAR 2003
UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Legal Department
Incyte Genomics, Inc.
3160 Porter Drive
Palo Alto, California 94304

In re Application of	:	
TANG et al.	:	
Application No.: 10/312,352	:	DECISION ON PETITION
PCT No.: PCT/US01/21067	:	UNDER 37 CFR 1.182
Int. Filing Date: 29 June 2001	:	
Priority Date: 30 June 2000	:	
Attorney Docket No.: PF-0794USN	:	
For: EXTRACELLULAR MATRIX AND CELL ADHESION MOLECULES		

This decision is in response to applicants' "Communication Re Inventor Name Changes" filed on 18 December 2002 which is being treated as a petition under 37 CFR 1.182. Applicants are requesting to change the name of the inventors Chandra Patterson and Narinder Walia due to marriage. The petition fee under 37 CFR 1.17 will be charged to Deposit Account No. 09-0108, as authorized.

DISCUSSION

The petition to correct the name of the inventors was accompanied by a copy of a "Request To Change Applicants/Inventors Name And Address Under Rule 92bis" that has apparently been filed with the International Bureau ("IB"). If this requested name change was entered in the international application by the IB, then the change would apply to the present national stage application, and no further action would be required. However, a review of the application file reveals that there is no record of a Notification of the Recording of a Change (Form PCT/IB/306) being issued by the IB confirming the requested name change in the international phase. Accordingly, the papers filed on 18 December 2002 have been treated as a petition under 37 CFR 1.182 to make the requested change in the present national stage application.

The Manual of Patent Examining Procedure at § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include the appropriate petition fee and an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or certified copy of the court order. Here, the 18 December 2002 submission included the authorization to charge Deposit Account No. 09-0108 the required petition fee, and it was accompanied by an affidavit signed by both inventors using their former name and present names. Applicants have therefore provided all the requirements for a grantable petition.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventors' name from Chandra Patterson to Chandra Arvizu and Narinder Walia to Narinder Chawla is **GRANTED**.

This application is being forwarded to United States/Elected Office for further processing with the name of the sixteenth inventor changed to Chandra Arvizu and the name of the eighteenth inventors changed to Narinder Chawla and for review of the national stage papers submitted 18 December 2002 and, if appropriate, preparation and mailing of the Notification of Acceptance of Application under 35 U.S.C. 371 indicating a date of **18 December 2002** under 35 U.S.C. 371(c).

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

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04 JUN 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

Ronald J. Tahis
FLYNN, THIEL, BOUTELL & TANIS, P.C.
2026 Rambling Road
Kalamazoo, MI 49008-1631

In re Application of :
DEKOCK, Allen *et al* :
U.S. Application No.: 10/312,355 :
PCT No.: PCT/US01/19362 :
Int. Filing Date: 15 June 2001 : **DECISION**
Priority Date: 20 June 2000 :
Attorney's Docket No.: RP Case 29A :
For: PRESSURE LIQUID FILTRATION :
WITH ULTRASONIC BRIDGING :
PREVENTION :

This is in response to applicants' "Petition to Accept an Unintentionally Delayed Claim for Priority 35 U.S.C. 120 or 365(c)" (e) filed on 20 February 2004 and again via facsimile on 13 May 2004. This is treated as a petition under 37 CFR 1.78(a)(3).

BACKGROUND

On 15 June 2001, applicants filed international application PCT/US01/19362 claiming priority of an earlier United States application filed 20 June 2000. The thirty-month period for paying the basic national fee in the United States expired on 20 December 2003.

On 19 December 2002, applicants filed national stage papers in the United States Designated/Elected Office (DO/EO/US) which was accompanied by, *inter alia*, the basic national fee.

On 25 April 2003, the DO/EO/US mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 indicating that the application has a date of receipt of all 35 U.S.C. 371 requirements of 19 December 2002.

On 20 February 2004, applicants filed the present petition under 37 CFR 1.78(a)(3).

On 13 May 2004, applicants resubmitted the petition under 37 CFR 1.78(a)(3) via facsimile.

DISCUSSION

37 CFR 1.78(a)(2) applies to nonprovisional applications which entered the national stage after compliance with 35 U.S.C. 371 from an international application filed under 35 U.S.C. 363 on or after November 29, 2000. A petition under 37 CFR 1.78(a)(3) is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(2)(ii).

In the present case, the later filed international application designating the United States was filed on 15 June 2001 and the petition was filed after the time period specified in 37 CFR 1.78(a)(2)(ii).

37 CFR 1.78(a)(3) states:

> If the reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section is presented in a nonprovisional application after the time period provided by paragraph (a)(2)(ii) of this section, the claim under 35 U.S.C. 120, 121 or 365(c) for the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America may be accepted if the reference identifying the prior-filed application by application number or international application number and international filing date was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed application must be accompanied by:
>
> (i) The reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section to the prior-filed application, unless previously submitted;
>
> (ii) The surcharge set forth in §§ 1.17(t); and
>
> (iii) A statement that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of this section 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.

Items (1), (2) and (3) have been satisfied. The petition is accompanied by the required reference to the prior filed application. The fee has been paid. The required statement has been made.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.78(a)(3) is **GRANTED**.

Applicants are advised that 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 inclusion of the prior-filed application on any future Filing Receipt should not be construed as meaning that applicants are entitled to the claim for benefit of priority to the prior-filed application noted thereon. The examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

This application is being forwarded to Technology Center 1700 for further processing in accordance with this decision.

Richard Cole
PCT Legal Examiner
PCT Legal Office

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

From: **FLYNN, THIEL, BOUTELL & TANIS, P.C.** - **VIA FACSIMILE**
2026 Rambling Road **TOTAL PAGES** 29
Kalamazoo, Michigan 49008 U.S.A.
Telephone 269-381-1156
Facsimile 269-381-5465

Date: May 13, 2004

To: UNITED STATES PATENT AND TRADEMARK OFFICE
Attention: Ms. Omaia Somia
PCT Branch (Petitions)
FAX NO.: 703-308-6459

RECEIVED
13 MAY 2004
Legal Staff
International Division

Re: Applicant : Allen DeKock, et al.
For : PRESSURE LIQUID FILTRATION WITH ULTRASONIC BRIDGING PREVENTION
Serial No.: 10/312 355
Filed : December 19, 2002
Our Ref. : RPA Case 29A

Kindly notify Ms. Somia as soon as this document has been received for purposes of letting her know that this document is available for her consideration.

Thank you.

Regards,

Ronald J. Tanis

RJT/ad

Encl: Letter to Patent Office dated May 13, 2004 including enclosures listed thereon

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper and the above-listed enclosures (if any) is being facsimile transmitted to the Patent and Trademark Office on the date shown below.

Signature Susan J. Padgham **Date** May 13, 2004
(Name of person sending fax)

PATENT APPLICATION

IN THE U.S. PATENT AND TRADEMARK OFFICE

May 13, 2004

Applicant(s): Allen DeKock, et al.

For: PRESSURE LIQUID FILTRATION WITH ULTRASONIC BRIDGING PREVENTION

Serial No.: 10/312 355 Group: 1724

Confirmation No.: 9972

Filed: December 19, 2002 Examiner: Prince

International Application No.: PCT/US01/19362

International Filing Date: June 15, 2001

Atty. Docket No.: RP Case 29A

Ms. Omaia Somia
PCT Branch (Petitions)
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Ms. Somia:

Per our phone chat on the afternoon of May 11, 2004, herewith is a fax copy of my February 16, 2004 PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM FOR PRIORITY UNDER 35 USC 120 OR 365(c), with listed enclosures. The original was mailed to the Patent Office February 17, 2004 under First Class Mailing Certificate. The present fax includes a photocopy of the $1,330 Petition fee check, the back side of which evidences that it was cashed by the USPTO.

NOTE TO PETITION EXAMINER

1. I understand Examiner Prince mailed his NOTICE OF ALLOWANCE under the assumption that this Petition was, or would be, granted. The issue fee is due <u>June 10, 2004</u>. Would it be possible to act on this Petition and inform the undersigned of the result before that date?

2. At the suggestion of Examiner Prince, I ask that you please note that the following.

(a) <u>This application as filed</u> (on December 19, 2002) <u>claimed the priority benefit</u> of the filing date of the

grandparent U.S. application (our Case 29 U.S.), through the parent PCT application (our Case 29 PCT), to the present child application (our Case 29A U.S.), in the required first specification sentence.

(b) The face of the published parent PCT application lists the serial number and filing date of the grandparent U.S. application under the heading "Priority Data". Therefore, this application as filed in its priority claim said that the parent PCT application "claims priority of" the grandparent U.S. application.

(c) The February 18, 2004 first (sole) Office Action in this application was mailed about 21 months after this application's filing date. It refused to recognize the phrase "claims priority" as a sufficient claim to the priority benefit of the grandparent U.S. application, so per Examiner Prince's suggestion, my Response (copy attached) amended this application to change "claims priority" to "is a continuation".

(d) Hence, the delay in changing "claims priority" to "is a continuation" was entirely unintentional.

(e) Indeed, when I was preparing the mentioned February 2004 Petition (copy attached), I reviewed in the most recent volumes the statute and 37 CFR sections referred to in the Office Action and found no mention of the terms "continuation", "division" or "continuation-in-part".

(f) I then searched the current volume of the MPEP and finally did find, at section 201.11, subsection III, parts A and C, several examples of required wording of priority claims, between successive U.S. applications, which required inclusion of the term "continuation" or "division" or "continuation-in-part". However, the sole example I found there, involving a PCT application has a U.S. application claiming the priority benefit of a parent PCT application, which did not use those terms, but instead simply referred to "the National Stage of International Application No. PCT ...". I found no example of required wording for the priority claim

at issue in this application, namely to extend a priority benefit claim from a PCT application back to a grandparent U.S. application.

(g) How then to word such a priority claim, given the above mentioned wording ("Priority Data") of the priority claim on the face of the parent PCT application and no stated contradictory example in the statute, CFR and MPEP? It was the Office Action, issued some 21 months after filing of this application, and subsequent discussions with Examiner and investigation by a USPTO staff attorney that made clear the that the USPTO would not recognize the priority benefit claim from parent PCT application back to the grandparent U.S. application unless the term "claims priority" were replaced by "is a continuation". Thus again the delay in providing priority benefit claim phrasing acceptable to the USPTO was unintentional.

It is thus requested that the Petition be granted, and that notice of the grant be provided the undersigned before the issue fee is due.

If there is a question, please do telephone the undersigned at the number given below for expeditious resolution.

Respectfully submitted,

Ronald J. Tanis

RJT/ad

FLYNN, THIEL, BOUTELL & TANIS, P.C.	Dale H. Thiel	Reg. No. 24 323
2026 Rambling Road	David G. Boutell	Reg. No. 25 072
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	Liane L. Churney	Reg. No. 40 694
	Brian R. Tumm	Reg. No. 36 328
	Steven R. Thiel	Reg. No. 53 685
	Sidney B. Williams, Jr.	Reg. No. 24 949

Encl: Copy of February 16, 2004 PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM FOR PRIORITY UNDER 35 USC 120 OR 365(c), with above stated attachments

Copy of front sheet of published parent PCT application

PATENT APPLICATION

Applicant(s): Allen DeKock, et al.

Title : PRESSURE LIQUID FILTRATION WITH ULTRASONIC BRIDGING PREVENTION

Serial No. : 10/312 355 Group: 1724

Confirmation No.: 9972

Filed : December 19, 2002 Examiner: Prince

International Application No.: PCT/US01/19362

International Filing Date : June 15, 2001

Atty. Docket No.: RP Case 29A

MAILED TO PATENT OFFICE
DATE FEB 17 2004

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

FIRST CLASS MAILING CERTIFICATE

Sir:

I hereby certify that this correspondence is being deposited with the United States Postal Service under 37 CFR 1.8 as first class mail in an envelope addressed to: Commissioner for Patents P.O. Box 1450, Alexandria, VA 22313-1450, on February 17, 2004.

Ronald J. Tanis

RJT/ad

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& TANIS, P.C.
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Steven R. Thiel Reg. No. 53 685
Sidney B. Williams, Jr. Reg. No. 24 949

Correspondence: Petition to Accept An Unintentionally Delayed Claim for Priority Under 35 USC 120 or 365(c) dated February 16, 2004 including enclosures listed thereon

190.05/03

PATENT APPLICATION

IN THE U.S. PATENT AND TRADEMARK OFFICE

February 16, 2004

Applicant(s): Allen DeKock, et al.

For: PRESSURE LIQUID FILTRATION WITH ULTRASONIC BRIDGING PREVENTION

Serial No.: 10/312 355 Group: 1724

Confirmation No.: 9972

Filed: December 19, 2002 Examiner: Prince

International Application No.: PCT/US01/19362

International Filing Date: June 15, 2001

Atty. Docket No.: RP Case 29A

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM FOR PRIORITY UNDER 35 USC 120 OR 365(c)

Sir:

Please accept Applicants' priority benefit claim of the filing date of grandparent U.S. Application No. 09/599 082 (Atty Ref: R-P Case 29), filed June 20, 2000, now U.S. Patent No. 6 395 186 issued May 28, 2002.

The first sentence of the present application is amended (see the attached copy of the Response to the pending Office Action) to change "claims priority" to "is a continuation" and so now reads as follows:

> This application is a 35 USC 371 nationalization of PCT Application No. PCT/US01/19362 (Atty Ref. R-P Case 29 PCT), filed June 15, 2001, which is a continuation of U.S. Application No. 09/599 082

(Atty Ref. R-P Case 29), filed June 20, 2000, now U.S. Patent No. 6 395 186, issued May 28, 2002.

This is believed to perfect the claim.

The entire delay between the date the claim was due under 37 CFR 1.78(a)(2) and the present date of filing the perfected claim was unintentional.

The surcharge under 37 CFR 1.17(t) is enclosed.

Please inform the undersigned of the granting of this Petition and the acceptance of the unintentionally delayed claim for priority.

The Commissioner is hereby authorized to charge any additional fees which may be required by this paper, or credit any overpayment, to Deposit Account No. 06-1382. A duplicate copy of this sheet is enclosed.

If any question remains, please telephone the undersigned at the number given below.

Respectfully submitted,

IN DUPLICATE

Ronald J. Tanis

RJT/ad

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& TANIS, P.C.
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Liane L. Churney Reg. No. 40 694
Brian R. Tumm Reg. No. 36 328
Steven R. Thiel Reg. No. 53 685
Sidney B. Williams, Jr. Reg. No. 24 949

Encl: Check ($1,330.00)
Copy of Response to Office Action dated February 16, 2004

110.0703

PATENT APPLICATION

IN THE U.S. PATENT AND TRADEMARK OFFICE

February 16, 2004

Applicant(s): Allen DeKock, et al.

For: PRESSURE LIQUID FILTRATION WITH ULTRASONIC BRIDGING PREVENTION

Serial No.: 10/312 355 Group: 1724

Confirmation No.: 9972

Filed: December 19, 2002 Examiner: Prince

International Application No.: PCT/US01/19362

International Filing Date: June 15, 2001

Atty. Docket No.: RP Case 29A

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO OFFICE ACTION

Sir:

Responsive to the Office Action mailed November 18, 2003, Applicants amend as follows:

(Please see following pages.)

- -

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on February 17, 2004.

Ronald J. Tanis

COPY

Amendments to the Specification

IN THE ABSTRACT OF THE DISCLOSURE

Attached hereto is a replacement Abstract.

IN THE WRITTEN DESCRIPTION

Please add the following new paragraph after the title and before the FIELD OF THE INVENTION on page 1:

---This application is a 35 USC 371 nationalization of PCT Application No. PCT/US01/19362 (Atty Ref. R-P Case 29 PCT), filed June 15, 2001, which is a continuation of U.S. Application No. 09/599 082 (Atty Ref. R-P Case 29), filed June 20, 2000, now U.S. Patent No. 6 395 186, issued May 28, 2002.---

Please replace the paragraph beginning at page 1, line 30, with the following rewritten paragraph:

---Sieg U.S. Patent 5 298 161, Goyal U.S. Patent 5 059 331 and a pending U.S. application (Attorney Ref: R-P Case 27), now U.S. Patent No. 6 251 294, assigned to the Assignee of the present invention, disclose filtration systems with alternate filtration and cleaning cycles. Ultrasonic energy is applied to supplement or substitute for backwashing, during the cleaning cycle (not during the filtration cycles) to remove impurities to be filtered out, from the input side of the filter, and thereby renew the filter for another cycle of filtration.---

Please replace the paragraph beginning at page 13, line 7, with the following rewritten paragraph:

---Other arrangements for a mounting the transducer 36 with respect to the filter housing 40 are contemplated, though less preferred. Two, for example, are enclosed in Figures 4 and 6, respectively, in the above mentioned pending application assigned to the Assignee of the present invention (Attorney's Ref: R-P Case 27), now U.S. Patent No. 6 251 294.---

COPY

Please replace the paragraph beginning at page 13, line 14, with the following rewritten paragraph:

---The process liquid user PLU (Figure 1) may be any of a variety of devices and/or industrial processes of a type including for example, paint spraying systems such as vehicle manufacturer paint spray booths, petroleum drilling systems and refineries, paper making and coating facilities, etc., which require input and use of any one of a variety of composite liquids of the kind having (1) a carrier liquid and (2) coalescing solids particles. In the process liquid user PLU, the composite liquid is typically contaminated with larger impurity elements which then need to be filtered out, so that the filtered composite liquid can be returned to the process liquid user PLU for reuse therein. Examples of such composite liquids are discussed above in respect to Petter, et al. U.S. Patent 3 161 159, which discussion need not be repeated here.---

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Amendments to the Claims

This listing of claims replaces all prior listings of claims in the application.

Listing of Claims

1.-30. (Cancelled)

31. (Previously presented) A method for increasing flow rate, through a liquid pressure filter unit, of liquid-to-be-filtered having (1) a carrier liquid, (2) coalescing solids particles which tend to stick together to block a filter element gap sized substantially larger than the size of an average said coalescing solids particle, and (3) larger, impurity elements to be filtered out of said liquid-to-be-filtered and sized larger than such filter element gaps, comprising the steps:

providing a liquid pressure filter unit having a housing including an inlet and an outlet and a filter element having gaps substantially larger than said particles but smaller than said larger impurity elements, said filter element having a relatively low through flow rate in which said carrier liquid and coalescing solids particles pass reliably through said gap, said filter element having a relatively higher through flow rate at which said coalescing solids particles rapidly coalesce and block flow through said gaps and thus substantially immediately render said filter unit substantially inoperative;

locating at least one ultrasonic transducer in contact with liquid-to-be-filtered in said housing;

admitting liquid-to-be-filtered under pressure through said filter unit inlet and into contact with said filter element while energizing said ultrasonic transducer;

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transmitting said ultrasonic vibrations through said liquid-to-be-filtered and thereby agitating, at an ultrasonic frequency, coalescing solids particles adjacent said gaps, thereby facilitating passage of a quantity of carrier liquid and coalescing solids particles through said gaps at said relatively higher through flow rate and preventing said coalescing solids particles from blocking flow through said gaps.

32. (Previously presented) The method of Claim 31 wherein said liquid-to-be-filtered is selected from the group consisting of colloidal gels, lime slurries, clay slurries, mineral slurries, starch solutions, and clay coatings.

33. (Previously presented) The method of Claim 31 wherein said process liquid system is selected from the group consisting of petroleum drilling systems, petroleum refineries, paint spraying systems, paper making machines, and paper coating apparatus.

34. (Previously presented) Method of preventing bridging, and thereby stopping of filter flow, through a liquid pressure filter unit, of liquid-to-be-filtered, of a kind having (1) a carrier liquid, (2) coalescing solids particles which tend to stick together to block a filter element gap sized larger than the width of said particles, and (3) larger impurity elements to be filtered out of said liquid to be filtered and sized larger than such a filter element gap, comprising the steps of:

I. providing a liquid pressure filter unit comprising
   (A) a housing having a housing wall and an inlet and an outlet which open through said wall,
   (B) a filter element fixed in said housing and having an inlet side communicating with said

COPY

inlet, and outlet side communicating with said outlet and a rigid, self-supporting filtering wall of the kind including

(1) spaced, side-by-side face wires communicating with said inlet and defining said inlet side,

(2) spaced, side-by-side support wires extending generally at right angles to said face wires, fixedly locating said face wires, and defining said outlet side, and

(3) gaps, wherein a given said gap is bounded by an adjacent pair of said face wires and an adjacent pair of said support wires,

(C) an ultrasonic source comprising at least one ultrasonic transducer and in contact with liquid-to-be-filtered within said housing;

II. continuously, and simultaneously ultrasonically enhancing, filtering by:

(A) from a process liquid system, flowing liquid-to-be-filtered under pressure through said inlet to said inlet side of said filter element, said liquid to be filtered having (1) a carrier liquid, (2) coalescing solids particles which tend to stick together to block a filter element gap sized larger than the width of said particles and (3) impurity elements to be filtered out of said liquid-to-be-filtered and sized larger than such a filter element gap and coalescing solids particles;

(B) passing through said filter element wall gaps a quantity of said carrier liquid and coalescing solids particles but blocking passage through said gaps of said larger impurity elements by means of said wires, said coalescing solids

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particles having a relatively slow flow rate at which they flow easily and in sequence through a said filter element wall gap and having a relatively faster rate at which they tend to stick together and block said filter element wall gap,

(C) setting said flow at said relatively faster rate while continuously electrically energizing said ultrasonic transducer and therewith (1) continuously applying ultrasonic energy from said ultrasonic transducer directly to said liquid-to-be-filtered in contact with said inlet side of said filter element wall, continuously agitatingly moving said coalescing solids particles adjacent a said filter element wall gap at an ultrasonic frequency and therewith (1) interfering with coagulating of said coalescing solids particles near said gap, (2) preventing blocking of flow through said gap by said coalescing solids particles, and (3) allowing a quantity of said carrier liquid and coalescing particles to pass through said gap at said relatively faster rate,

(D) directing said quantity of said carrier liquid and coalescing solids particles that has passed through said gap away from said outlet side of said filter element and thence through said outlet to a process liquid system;

whereby flow of said coalescing solids particles through said filter element wall gaps continues at said relatively faster rate without risk of blocking thereby of said filter element wall gaps.

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35. (Previously presented) The method of Claim 34 wherein said liquid-to-be-filtered is selected from the group consisting of liquids of a viscous or thixotropic or dilatant nature, colloidal gels, lime slurries, clay slurries, mineral slurries, starch solutions, and clay coatings.

36. (Previously presented) The method of Claim 34 wherein said process liquid system is selected from the group consisting of petroleum drilling systems, petroleum refineries, paint spraying systems, paper making machines, and paper coating apparatus.

37. (Previously presented) The method of Claim 34 in which the coalescing solids particles content of the composite liquid exceeds 50%, a typical coalescing particle width is about 1 micron, the ratio of gap to particle size is about 30 to 1, said liquid-to-be-filtered is of a kind including liquids of a viscous or thixotropic or dilatant nature, colloidal gels, lime slurries, clay slurries, mineral slurries, starch solutions, and clay coatings, wherein said process liquid system is selected from the group consisting of petroleum drilling systems, petroleum refineries, paint spraying systems, paper making machines, and paper coating apparatus, wherein said face wires are generally of isosceles triangular shape having a base facing toward and in contact with incoming liquid-to-be-filtered, adjacent face wires being spaced by a substantially trapezoidal cross section gap such that said gap widens along the normal path of flow through said filter element wall, the closest spaced portion of the respective cross sections of adjacent face wires defining said gap, in which said ultrasonic frequency is a frequency selected from the range of about 40 to 70 KHz and the electric power applied to said ultrasonic transducers is selected from

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the range of 500 to 1000 watts per cubic foot of filter housing volume.

38. (Previously presented) A method for increasing the continuous filtering flow rate through a pressure liquid filter unit of liquid-to-be-filtered having (1) a carrier liquid, (2) coalescing solids particles which tend to adhere and bridge filter element gaps sized substantially larger than said particles and (3) larger impurity elements to be filtered out of said liquid-to-be-filtered and sized larger than such filter element gaps, comprising:

providing a pressure liquid filter unit having a housing with an inlet and an outlet and containing a filter element having gaps, a given said gap being sized to reliably pass said carrier liquid and coalescing solids particles at a first relatively low liquid flow rate, but to block coalescing solids particles passage therethrough at a relatively high liquid flow rate;

simultaneously flowing said liquid-to-be-filtered under pressure through said inlet into said housing at said relatively high flow rate and applying ultrasonic energy to said liquid-to-be-filtered in said housing;

at an ultrasonic frequency agitating said coalescing solids particles adjacent said given gap and thereby passing a quantity of said carrier liquid and coalescing solids particles through said given gap at said relatively high flow rate without blocking of flow through said given gap by said coalescing solids particles.

39. (Previously presented) Apparatus for preventing bridging, and thereby stopping of filter flow, through a liquid pressure filter unit supplied with liquid-to-be-filtered of a kind having (1) carrier liquid, (2) coalescing solids particles which tend to stick together to block a

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filter element gap sized larger than the width of the particles, and (3) larger impurity elements to be filtered out of the liquid-to-be-filtered and sized larger than such a filter element gap, the apparatus comprising:

a housing having a housing wall, and an inlet and an outlet which open through said wall;

at least one filter element fixed in said housing and having an inlet side communicating with said inlet, an outlet side communicating with said outlet, and a filtering wall of a kind including filtering gaps;

at least one ultrasonic transducer located in contact with liquid within said housing;

a control operatively connected in controlling relation to said inlet, outlet and transducer and having a condition wherein

(A) said inlet is open to a source of liquid-to-be-filtered under pressure of a kind having (1) a carrier liquid, (2) coalescing solids particles which tend to stick together to block a filter element gap sized larger than the width of said particles and (3) impurity elements to be filtered out of said liquid-to-be-filtered and sized larger than a said filter element gap and coalescing solids particles, and said outlet is open to flow through said filter element, said filter element filtering gaps being larger than said coalescing solids particles and smaller than said impurity elements, and

(B) said transducer has an ultrasonic energy output coupled to at least said carrier liquid and coalescing solids particles;

whereby to avoid blocking of a said filter element gap by such coalescing solids particles, and

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whereby flow of said coalescing solids particles through said filter element wall gap continues at the faster rate than in the absence of said ultrasonic transducer.

40. (Previously presented) Apparatus of Claim 39 including a mechanical cleaning device supported in cleaning engagement with a surface of the filter element and having a path of movement covering a substantial area of the filter element, and a power unit having an energized condition, said mechanical cleaning device being operatively connected with said power unit and having a moving state corresponding a said energized condition of said power unit, said control being operatively associated with said power unit and having output paths simultaneously energized and respectively coupled in energizing relation with (1) said cleaning device, (2) said ultrasonic power supply and (3) flow opening valves at said inlet and outlet.

41. (Previously presented) The apparatus of claim 40 in which said filter element has an interior face engaging said liquid-to-be-filtered, said mechanical cleaning device having a path of movement substantially coaxial with said filter element, said filter element having an elongate tubular shape, said mechanical cleaning device comprising a cleaning member in axial reciprocating cleaning engagement with the interior face of said filter element and an axially elongate, reciprocable member fixedly supporting said cleaning member for reciprocation therewith, said ultrasonic transducer having an output portion located within said filter element and disposed in radially spaced relation between the central axis and interior face of said filter element.

42. (New) A method for increasing the continuous filtering flow rate through a pressure liquid filter unit of

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liquid-to-be-filtered having (1) a carrier liquid, (2) coalescing solids particles which tend to adhere and bridge filter element gaps sized substantially larger than said particles and (3) larger impurity elements to be filtered out of said liquid-to-be-filtered and sized larger than such filter element gaps, comprising:

providing a pressure liquid filter unit having a housing with an inlet and an outlet and containing a filter element having gaps, a given said gap being sized to reliably pass said carrier liquid and coalescing solids particles at a first relatively low liquid flow rate, but to block coalescing solids particles passage therethrough at a relatively high liquid flow rate;

simultaneously flowing said liquid-to-be-filtered under pressure through said inlet into said housing at said relatively high flow rate and applying ultrasonic energy to said liquid-to-be-filtered in said housing;

at an ultrasonic frequency agitating said coalescing solids particles adjacent said given gap and thereby passing a quantity of said carrier liquid and coalescing solids particles through said given gap at said relatively high flow rate without blocking of flow through said given gap by said coalescing solids particles.

43. (New) The method of Claim 42 wherein said liquid-to-be-filtered is selected from the group consisting of liquids of a viscous or thixotropic or dilatant nature, colloidal gels, lime slurries, clay slurries, mineral slurries, starch solutions, and clay coatings.

44. (New) The method of Claim 42 wherein said process liquid system is selected from the group consisting of petroleum drilling systems, petroleum refineries, paint

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spraying systems, paper making machines, and paper coating apparatus.

45. (New) Apparatus for preventing bridging, and thereby stopping of filter flow, through a liquid pressure filter unit supplied with liquid-to-be-filtered of a kind including a carrier liquid and particulate solids at least some of which tend to stick together to block a filter element gap, the particulate solids including particles sized smaller than the width of the filter element gap and larger impurity elements to be filtered out of the liquid-to-be-filtered and sized larger than such a filter element gap, the apparatus comprising:

a housing having a housing wall, and an inlet and an outlet which open through said wall;

at least one filter element fixed in said housing and having an inlet side communicating with said inlet, an outlet side communicating with said outlet, and a filtering wall of a kind including filtering gaps;

at least one ultrasonic transducer located in contact with liquid within said housing;

a control operatively connected in controlling relation to said inlet, outlet and transducer and having a condition wherein

(A) said inlet is open to a source of liquid-to-be-filtered under pressure of a kind including a carrier liquid and particulate solids at least some of which are of coalescing type and tend to stick together to block a filter element gap, which particulate solids include particles smaller than a said filter element gap and impurity elements to be filtered out of said liquid-to-be-filtered and sized larger than a said filter element gap, and said outlet is open to flow through said filter element,

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said filter element filtering gaps being larger than said particles and smaller than said impurity elements, and

(B) said transducer has an ultrasonic energy output coupled to said carrier liquid and particulate solids;

whereby to avoid blocking of a said filter element gap by such coalescing particulate solids, and

whereby flow of said smaller particles through said filter element wall gap continues at the faster rate than in the absence of said ultrasonic transducer.

46. (New) The apparatus of Claim 45 including a mechanical cleaning device supported in cleaning engagement with a surface of the filter element and having a path of movement covering a substantial area of the filter element, and a power unit having an energized condition, said mechanical cleaning device being operatively connected with said power unit and having a moving state corresponding to said energized condition of said power unit, said control being operatively associated with said power unit and having output paths simultaneously energized and respectively coupled in energizing relation with (1) said cleaning device, (2) said ultrasonic power supply and (3) flow opening valves at said inlet and outlet.

47. (New) The apparatus of Claim 46 in which said filter element has an interior face engaging said liquid-to-be-filtered, said mechanical cleaning device having its path of movement substantially coaxial with said filter element, said filter element having an elongate tubular shape, said mechanical cleaning device comprising a cleaning member in axial reciprocating cleaning engagement with the interior face of said filter element and an axially elongate, reciprocable

member fixedly supporting said cleaning member for reciprocation therewith, said ultrasonic transducer having an output portion located within said filter element and disposed in radially spaced relation between the central axis and interior face of said filter element.

48. (New) The apparatus of Claim 45 in which said ultrasonic transducer has an elongate active portion which extends into said housing substantially parallel to the length axis of said filter element.

49. (New) A method of increasing the productive duration of filtering, in a pressure liquid filter unit, of incoming liquid including a carrier liquid and particulate solids which tend to stick together and thus blind a filter element gap, comprising:

flowing incoming liquid into a filter housing and along an inlet face of a filter element disposed in said housing and thereby in contact with at least portions of particulate solids on said inlet face, while ultrasonically driving a member in contact with said incoming liquid adjacent and opposing said filter element inlet face, and therewith ultrasonically agitating said incoming liquid adjacent said filter element inlet face, and thereby reducing the ability of particulate solids to stick to said filter element inlet face;

passing a portion of said carrier liquid and smaller particulate solids through said filter element and out of said filter housing as filtered liquid;

leaving in said housing a portion of said carrier liquid containing larger particulate solids;

collecting said larger particulate solids from said filter housing.

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50. (New) The apparatus of Claim 49 including an ultrasonic driver drivingly coupled to said ultrasonically driven member, said ultrasonic driver being fixed outside said filter housing and protruding therefrom.

51. (New) The apparatus of Claim 49 in which said flowing step includes flowing said incoming liquid axially along the outside of a tubular filtration wall of said filter element and between said filter element and an inner peripheral wall of said housing, said passing step includes passing said carrier liquid and smaller particulate solids radially inward through said tubular filtration wall and passing same axially within said filter element to a housing outlet port for filtered liquid.

52. (New) A filtering system, comprising:

a housing having an inlet for a liquid-to-be-filtered and an outlet for filtered liquid and containing a filter element having a filtration wall;

an ultrasonic transducer having a vibration output face in contact with liquid to be filtered in said housing and radially opposing and lying adjacent said filtration wall;

an ultrasonic energy source outside said filter housing and connected to said transducer and having an activated state corresponding to ultrasonic liquid agitation adjacent said inlet face of said filter element wall;

a movable cleaning member in engagement with, and having a path of movement along, the inlet side of said filtration wall;

a cleaning member drive outside said filter housing and connected to said movable cleaning member inside said filter housing and having an activated state corresponding to displacement of said cleaning member along said inlet side of said filtration wall;

said liquid-to-be-filtered inlet and filtered liquid outlet each having an open, liquid flowing state corresponding

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to said activated state of said ultrasonic source and said activated state of said cleaning member drive;

so as to simultaneously provide (1) ultrasonic vibration of liquid to be filtered adjacent said inlet face of said filtration wall, (2) movement of said cleaning member through said liquid-to-be-filtered and along said inlet face of said filtration wall and (3) filtering flow of liquid through said filtration wall.

53. (New) The apparatus of Claim 52 in which said housing has a peripheral wall, said transducers being mounted on said peripheral wall and facing into the interior of said filter housing in radial opposition to said filtration wall of said filter element.

54. (New) The apparatus of Claim 53 in which said filtration wall is of substantially cylindrical shape, said cleaning element path of movement being coaxially within said cylindrical cleaning element, said liquid to be filtered inlet communicating with the interior of said cylindrical filter element, said filtered liquid outlet communicating with a space between said cylindrical filter element and peripheral wall of said filter housing.

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REMARKS

Specification pages 1 and 13 and the Abstract are amended. Claims 42-54 are added.

Attention is directed to the numbered sections in the DETAILED ACTION.

Responsive to DETAILED ACTION sections 1 and 2, a new Declaration is enclosed, which claims filing date benefit under 35 USC 120 and 365(c) of grandparent U.S. Application No. 09/599 082 (Attorney Ref: RP Case 29) and parent PCT Application No. PCT/US01/19362 (Attorney Ref: RP Case 29 PCT) and which identifies the present application by filing date and serial number. The enclosed Declaration is believed to comply with 37 CFR 1.67(a) and MPEP 602.01 and 602.02, and thus to satisfy the requirement in DETAILED ACTION paragraphs 1 and 2.

As to DETAILED ACTION sections 3 and 4, same discuss the "reference required by 35 USC 120 ... and ... 37 CFR 1.78(a)(2) ... to the prior application ...". Neither the statute nor 37 CFR appears to define the 35 CFR 120 required "specific reference" or the 37 CFR 1.78(a)(2) required "reference" or "relationship", or specify particular wording for same. The same applies to 35 USC 365(c). However, it is understood from DETAILED ACTION section 4, first paragraph, that to claim the filing date priority benefit under 35 USC 120 or 365(c) of an earlier application, the reference in the first sentence of the specification must include one of the words "continuation" or "division" or "continuation-in-part".

Accordingly, the first sentence of the present specification is amended above to change "claims priority" to "is a continuation", in the claim of parent PCT Application No. PCT/US01/19362 to the filing date priority basis of grandparent original U.S. Application No. 09/599 082.

The second sentence of the specification, namely

> "The disclosure of Serial No. 09/599 082 is, in its entirety, incorporated herein by reference"

appears to be unnecessary and so is cancelled.

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The first sentence of the present specification refers to the present application as "a 35 USC 371 nationalization of PCT Application No. 09/599 082 ...". The undersigned understands this suffices to give the present application the benefit of the PCT filing date. Indeed the Filing Receipt refers to "priority data as claimed by applicant" with respect to the parent PCT application. Accordingly, that part of the first sentence of the specification remains unchanged. However, if Examiner requires a further change, it is requested he phone the undersigned to resolve the issue.

Accordingly, the amended benefit claiming first sentence of the specification is believed now sufficient to entitle this application to the benefit of the filing date of the grandparent U.S. application, as the undersigned originally intended.

Further, Applicants herewith comply with the pending Office Action by submitting to "Mail Stop Petitions" a "Petition to Accept an Unintentionally Delayed Claim for Priority under 35 USC 120", accompanied by (1) the reference (above discussed) in the specification required by 35 USC 120 and 37 CFR 1.78(a)(2), in the form of a copy of this Response, (2) the surcharge under 37 CFR 1.17 (t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) and the date the claim was filed was unintentional. A copy of the Petition is attached to this Response for convenient reference.

As to DETAILED ACTION sections 5 and 6, rejection of pending Claims 31-41 under the judicially created Doctrine of Obviousness-type Double Patenting is believed overcome by the attached Terminal Disclaimer in compliance with 37 CFR 1.321(c).

Accordingly, the requirements of the Office Action are believed met.

Herewith submitted and above discussed amended Specification page 1 is also amended in the last paragraph thereof to reference the pending U.S. application (Attorney Ref: R-P Case 27) ... assigned to the Assignee of the present

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invention further as "now U.S. Patent 6 251 294". Further, specification page 13 is amended herewith to again add reference to RP Case 27 as "now U.S. Patent No. 6 251 294" as well as to amend the third and fourth lines of the first paragraph under the heading "OPERATION", such amendment being in accord with original Claim 9 of the grandparent U.S. application 09/599 082, now U.S. Patent 6 395 186. Further, the abstract is herewith amended to improve the form thereof, as by deleting "said", conversion to a single paragraph, and reduction in the number of words. These aforementioned specification and abstract amendments were made in the original grandparent U.S. application and so conform the present application to U.S. grandparent patent 6 395 186. Thus, these specification and abstract amendments are believed proper for entry in this application.

Please consider added Claims 42-54.

Please consider the attached Information Disclosure Statement.

The application is believed in condition for allowance. Reconsideration is requested.

Should a question remain, please telephone the undersigned at the number given below.

Respectfully submitted,

Ronald J. Tanis

RJT/ad

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Sidney B. Williams, Jr. Reg. No. 24 949

Encl: Supplemental Declaration and transmittal therefor
Photocopy of Petition to Accept an Unintentionally Delayed Claim for Priority under 35 USC 120
Terminal Disclaimer and transmittal
Marked-up Abstract
Information Disclosure Statement
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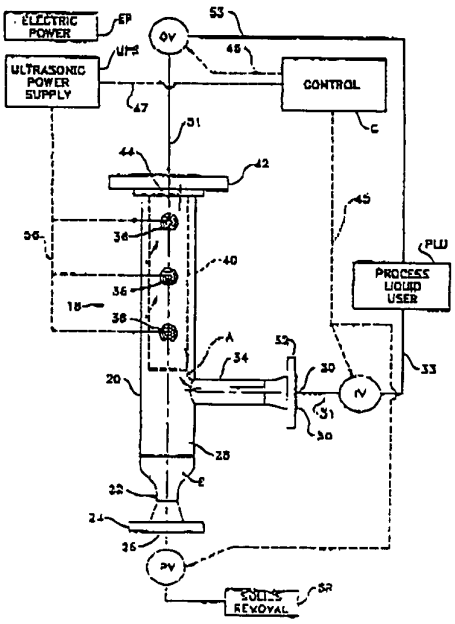
(54) Title: PRESSURE LIQUID FILTRATION WITH ULTRASONIC BRIDGING PREVENTION



(57) Abstract: Methods and apparatus for increasing the continuous filtering flow rate through a pressure liquid filter unit of liquid-to-be-filtered having (1) a carrier liquid, (2) coalescing solids particles which tend to adhere and bridge filter element gaps sized substantially larger than said particles and (3) larger impurity elements to be filtered out of said liquid-to-be-filtered and sized larger than such filter element gap, comprise: providing a pressure liquid filter unit having a housing with an inlet and an outlet and containing a filter element having gaps, a given gap being sized to reliably pass the carrier liquid and coalescing solids particles at a first relatively low liquid flow rate, but blocking coalescing solids particles passage therethrough due to bridging of said gaps by the coalescing solids particles at a relatively high liquid flow rate; simultaneously flowing the liquid-to-be-filtered under pressure through the inlet into the housing at the relatively high flow rate and applying ultrasonic energy to the liquid-to-be-filtered in the housing; at an ultrasonic frequency agitating the coalescing solids particles adjacent said gap and thereby passing the carrier liquid and coalescing solids particles through the gap at the relatively high flow rate without bridging and blinding of the gap by the coalescing solids particles.

WO 01/97939 A2

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RPG
Paper No. July 18, 2006

In re Application of Hiroshi Fukui et al.
Serial No.: 10/312,357
Filed: December 26, 2002

DECISION ON PETITION
UNDER *37 CFR 1.48(b)*

For: COLOR-DEVELOPING COMPOSITION, AND COSMETIC PREPARATION, FRAGRANCE PRODUCT AND DISPLAY ARTICLE USING THE SAME

This is a decision on the PETITION TO DELETE CORRECTLY NAMED PERSONS WHO ARE NOT INVENTORS OF INVENTION NOW BEING CLAIMED (37 C.F.R. ∋ 1.48(b), filed June 20, 2006 to correct inventorship under 37 CFR 1.48(b) by deleting the names of Yuichiro Mori, Masanori Yoshimura, and Yuji Matsushita from the present inventorship.

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.

Randy Gulakowski
Supervisory Patent Examiner
Art Unit 1712
Technology Center 1700

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Paper Number

In re application of
Hiroshi Fukui et al.
Serial No. 10/312,357
Filed: December 26, 2002
For: COLOR-DEVELOPING COMPOSITION, AND COSMETIC PREPARATION, FRAGRANCE PRODUCT AND DISPLAY ARTICLE USING THE SAME

DECISION ON PETITION

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed July 27, 2006.

On December 21, 2005, a final Office action was mailed to applicants. An after final amendment and request for reconsideration was submitted by Applicants on May 23, 2006. An advisory action was mailed June 5, 2006 advising Applicants that the amendments would be entered but that the reply was not persuasive and that the rejection would be maintained.

Applicants then filed a Request for Continued Examination on June 20, 2006. Along with the request was a 1.132 Declaration by Norinobu Yoshikawa.

On July 27, 2006, a final Office action was mailed. All of the previous grounds of rejection were maintained and the above 1.132 Declaration was addressed by the examiner. The examiner stated in the office action that all claims were drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next office action if they had been entered in the earlier application. On September 19, 2006, the present petition was filed.

Petitioner has argued that the finality of the last Office action is improper. The Petitioner argues that according to MPEP 706.07(b), "it would not be proper to make final a first Office action in a continuing or substitute application where that application contains material which was presented in the earlier application after final rejection or closing of prosecution but was denied entry...". Petitioner argues that the examiner indicated over the telephone that the claim amendments presented after final would not be entered and that the 1.132 Declaration was new to the application and thus the first action after the RCE would not be proper.

DECISION

As set forth in the petition, the standard for making an Office action final is set forth in section 706.07(b) of the MPEP which states:

706.07(b) Final Rejection, When Proper on First Action

The claims of a new application may be finally rejected in the first Office action in those situations where (A) the new application is a continuing application of, or a substitute for, an earlier application, and (B) all claims of the new application (1) are drawn to the same invention claimed in the earlier application, and (2) would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application.

However, it would not be proper to make final a first Office action in a continuing or substitute application 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.

In this case, the first criteria is met by the filing of a RCE on June 20, 2006. Turning to the second criteria, it is noted that the amendments to the claims, filed May 23, 2006, which were entered after final, merely moves the reference to the composition of "Claim 6" from the body of method claims 21 and 22 to the preamble of those claims. The scope of claims 21 and 22 did not change by the amendment. From the record, it is clear the applicant was advised that the amendments presented after final would be entered by the issuance of the advisory action of June 5, 2006, which was mailed prior to the filing of the Request for Continued Examination on June 20, 2006. As to the second part of the criteria, the claims presented in the RCE are of the same scope as those finally rejected in the action of December 21, 2005, and were not denied entry after final, and thus were properly finally rejected.

As to the concerns of the 1.132 Declaration not having been considered previously in the application, the 1.132 Declaration merely provides arguments and assertions by Norinobu Yoshikawa and there is no reason seen why the declaration could not have been presented earlier in the prosecution. Furthermore, declaration was addressed by the examiner in the final action of July 27, 2006 and treated accordingly. There is nothing in the declaration which would effect the scope of the claims and did not effect the examiner's rejection of the claims and the application of the prior art. Thus, the mere submission of the 1.132 Declaration in question would not have precluded the action of the examiner on July 27, 2006 from being made final.

The Petition is **DENIED**.

Applicant's time for response to the July 27, 2006 office action continues to run as set forth in the office action.

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In re Application of LANCASTER et al. Serial No.: 10/312,423 PCT No.: PCT/GB01/02922 Int. Filing Date: 29 June 2001 Priority Date: 29 June 2000 Attorney's Docket No.: PG4124USW For: HYDRAULIC LOCK DEVICE	DECISION ON REQUEST FOR CORRECTED FILING RECEIPT

This decision is in response to applicant's "REQUEST FOR CORRECTED FILING RECEIPT" filed in the United States Patent and Trademark Office (USPTO) on 24 June 2003. The petition requests that the filing receipt in the above identified application be corrected; that is the typographical error in the last name of one of the inventors on the filing receipt be corrected to Theophilus.

On 29 June 2001, applicant filed international application No. PCT/GB01/02922 which claimed priority of an earlier British application filed 29 June 2000. A copy of the international application had been communicated earlier to the United States Patent and Trademark Office from the International Bureau on 03 January 2002. The application identified Andrew Lewis Theophilus as one of the applicant/inventors.

On 27 December 2002, applicant filed a transmittal letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee.

On 15 May 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and the $130 surcharge for filing the oath or declaration after the thirty month period was required. The notification set a two month time limit in which to respond.

On 29 May 2003, applicant submitted an executed declaration in response to the Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office. Andrew Lewis Theophilus was one of the applicant/inventors to execute the declaration.

On 11 June 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Acceptance of Application under 35 U.S.C. 371 (Form PCT/DO/EO/903) along with a filing receipt. The filing receipt incorrectly identified the third named inventor misspelling his last name as Theopilus.

On 24 June 2003, applicant filed a Request for Corrected Filing Receipt, requesting a correction of the last name of the inventor Theophilus.

A review of the application file reveals that the last name of the third inventor appears on the published international application as THEOPHILUS and on the executed declaration. Therefore, the filing receipt will be corrected to identify the third inventor's last name as Theophilus

CONCLUSION

For the reasons above, applicant's request for a corrected filing receipt to correct the third inventor's last name to Theophilus is **GRANTED**;.

The application is being forwarded to US Designated/Elected Office for further processing in accordance with this decision; that is, for issuance of a new filing receipt correctly spelling the last name of inventor Theophilus.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467
Facsimile: (703) 308-6459

SPE: G. Epps

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/22/06

TO SPE OF : ART UNIT 2878

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/312,436 Patent No.: 6927375

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Georgia Y Epps — SPE

2878 — Art Unit

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Leopold Presser
Scully Scott Murphy & Presser
400 Garden City Plaza
Garden City, NY 11530

Mail Date: 04/21/2010

Applicant	: Ashley Bush	: DECISION ON REQUEST FOR
Patent Number	: 7618634	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/312,437	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **826** 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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Leopold Presser
Scully Scott Murphy & Presser
400 Garden City Plaza
Garden City, NY 11530

Mail Date: 05/18/2010

Applicant : Ashley Bush
Patent Number : 7618634
Issue Date : 11/17/2009
Application No : 10/312,437
Filed : 06/16/2003

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **899** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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JUN 12 2008

In re Application of	:	
Holma, et al.	:	
Application No. 10/312,444	:	DECISION
Filed: 27 December, 2002	:	
Attorney Docket No. 59643.00106	:	

This is a decision on the petition, filed on 31 January, 2008, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

A proper showing as to non-receipt requires at the very minimum: a statement from practitioner stating that the Office action was not received by the practitioner; a statement from the practitioner attesting to the fact that a search of the file jacket and docket records for the application indicates that the Office action was not received with a copy of those docket records; and a brief statement of the calendaring process and a copy of the due-date (calendar) docket record(s) where the nonreceived Office action would have been scheduled for reply had it been received must be attached to and referenced in the practitioner's statement.

Alternatively, for a showing of timely and proper reply: a statement from practitioner stating that the reply was timely submitted by the practitioner; and copies of all papers submitted as and/or in

support of that reply, with/and a copy of the date-stamped receipt card, Office FAX receipt acknowledgement (not simply Petitioner's FAX transmittal), or EFS receipt acknowledgment from the Office, along with practitioner's attestation as to the correctness/completeness of his/her records.

The showing(s) must include that of the person(s) with first-hand knowledge and an acknowledgment by the Petitioner that he/she has reviewed that information in compliance with his/her duty of candor to the Office.

BACKGROUND

The record reflects as follows:

This application was held abandoned for Petitioner's failure to reply timely and properly to a final Office action (copy enclosed herewith) mailed on 18 April, 2007, with a reply due absent extension of time on or before 18 July, 2007.

On Monday, 20 August, 2007, having waited four months into the reply period, Petitioner filed, *inter alia*, rather than a proper reply instead a request and fee for a one month extension of time and an after-final amendment, which Petitioner, as one registered to practice before the Office, was aware was not a proper reply and not of right, and the Examiner mailed an Advisory action on 10 September, 2007.

The application went abandoned after midnight 18 August, 2007.

The Office mailed the Notice of Abandonment 31 December, 2007.

On 31 January, 2008, Petitioner filed the instant petition with, *inter alia*, an averment that the a reply (in the form of a request for continued examination (RCE) and fee and a submission under 37 C.F.R. §1.114 in the form of an amendment) had been timely filed with a request and fee for a two- (2-) month extension of time, and in support of that averment Petitioner provided a copy of the file docket and of a date-stamped ("SEP 18 2007") receipt card—with a copy of the reply averred to have been filed—in compliance with the guidance set forth in the Commentary at MPEP §711.03(c)(I)(A) and (B).

The confusion appears to have occurred in part because Petitioner did not note that the request and fee for a three- (3) month extension of time are not the equivalent of a one- (1-) month extension and a two- (2-) month extension, and so may not properly have instructed the Office in that regard.

The guidance in the Commentary at MPEP §711.03(c) sets forth the showing requirements for overcoming the presumptions herein.[1]

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[1] The guidance in the Commentary at MPEP §711.03(c) as to non-received Office actions and timely filed replies is as follows:

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner **>describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.<

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).

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 CFR 1.10(c) through 1.10(e) and 1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 CFR 1.10(c), (d), (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

37 CFR 1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 CFR 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

(*See* MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," alternatively "A Reply Was Timely Filed"; see also: "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).)

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

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.[3] (See, also, the commentary at MPEP §711.03(c)(I)(A) and (B).)

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the showing requirements as discussed hereinabove.

CONCLUSION

The petition under 37 C.F.R. §1.181 is **granted**, and the 31 December, 2007, Notice of Abandonment is **vacated**.

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37 CFR 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 CFR 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 CFR 1.181(f).

Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 CFR 1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

[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).

[3] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

The instant application is released to Technology Center/AU 2618 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision—and it is noted that all inquiries with regard to that change in status should be directed to the Technology Center/AU where that change of status must be effected.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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CHIRON CORPORATION
INTELLECTUAL PROPERTY - R440
PO BOX 8097
EMERYVILLE, CA 94662-8097

Mail Date: 04/21/2010

Applicant	: Martino Bolognesi	: DECISION ON REQUEST FOR
Patent Number	: 7657385	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/312,490	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/22/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **581** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

18 NOV 2004

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Richard C. Woodbridge
STYNNESTVEDT LECHNER & WOODBRIDGE
PO Box 592
Princeton, NJ 08542-0592

In re Application of: RARITY, Malcolm, Edward U.S. Application No.: 10/312,494 PCT No.: PCT/GB02/01911 International Filing Date: 24 April 2002 Priority Date: 26 April 2001 Attorney's Docket No.: 5035-131US For: METHOD OF AND APPARATUS FOR FORECASTING THE PRICE OF A COMMODITY	DECISION ON PETITION UNDER 37 CFR 1.47(b)

This decision is issued in response to applicants' "Petition To Make Application For Patent On Behalf Of And As Agent For Inventor" filed 25 July 2003, treated herein under 37 CFR 1.47(b). Applicants have paid the required petition fee.

BACKGROUND

On 24 April 2002, applicants filed international application PCT/GB02/01911 which claimed a priority date of 26 April 2001 and which designated the United States. On 07 November 2002, a copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) by the International Bureau (IB). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 26 October 2003.

On 24 December 2002, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 23 May 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration acceptable under 37 CFR 1.497 was required.

On 25 July 2003, petitioner filed the petition under 37 CFR 1.47(b) considered herein. The petition seeks acceptance of the application without the signature of the sole inventor, Malcolm RARITY.

DISCUSSION

A grantable petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of proprietary interest in the application: and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. The present petition satisfies items (1), (2), (4), (5), and (6).

Regarding item (3), petitioner has failed to indicate the last known address of the nonsigning inventor.

CONCLUSION

Applicants' petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)" and must include the required statement of the last known address of the nonsigning inventor.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 273- 0459

27 JAN 2005

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of: RARITY, Malcolm, Edward U.S. Application No.: 10/312,494 PCT No.: PCT/GB02/01911 International Filing Date: 24 April 2002 Priority Date: 26 April 2001 Attorney's Docket No.: 5035-131US For: METHOD AND APPARATUS FOR FORECASTING THE PRICE OF A COMMODITY	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(b)

In a decision mailed by this Office on 18 November 2004, the petition under 37 CFR 1.47(b) was dismissed without prejudice for failing to satisfy all the requirements of a grantable petition. Specifically, petitioner had not submitted an express statement of the nonsigning inventor's last known address.

On 18 January 2005, petitioner filed the renewed petition considered herein. The renewed petition includes a statement of the nonsigning inventor's last known address, satisfying the final requirement for a grantable petition.

The renewed petition under 37 CFR 1.47(b) is **GRANTED**. The application is accepted on behalf of 37 CFR 1.47(b) applicant ING Bank N.V. without the signature of nonsigning inventor Malcolm Edward RARITY.

A notice of the acceptance of the application under 37 CFR 1.47(b) will be published in the Official Gazette, and a letter informing the nonsigning inventor of the application will be forwarded to the inventor's last-known address, as set forth in the renewed petition.

The application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 25 July 2003.

Richard M. Ross
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PCT Legal Office
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27 JAN 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Malcolm RARITY
Eldonhurst
15 Beechwood Grove
Surrey KT6 6QE
ENGLAND

In re Application of: RARITY, Malcolm, Edward
U.S. Application No.: 10/312,494
PCT No.: PCT/GB02/01911
International Filing Date: 24 April 2002
Priority Date: 26 April 2001
Attorney's Docket No.: 5035-131US
For: METHOD AND APPARATUS FOR FORECASTING THE PRICE OF A COMMODITY

Dear Mr. RARITY:

You are identified as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 116. Should a patent be granted, you will be designated as the inventor.

As the named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join 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.

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Counsel Of Record:
Richard C. Woodbridge
STYNNESTVEDT LECHNER & WOODBRIDGE
PO Box 592
Princeton, NJ 08542-0592

17 SEP 2003

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Michael S. Huppert
WENDEROTH, LIND & PONACK, LLP
2033 K Street, N.W., Suite 800
Washington, D.C. 20006-1021

In re Application of	:	
Bjorn FINDEN, et al	:	
Application No.: 10/312,501	:	
PCT No.: PCT/NO01/00276	:	
Int. Filing Date: 29 June 2001	:	DECISION
Priority Date: 03 July 2000	:	
Attorney Docket No.: 2002_1701A	:	
For: METHOD AND APPARATUS FOR	:	
PROVIDING A PRIMER WITH A...	:	
IN A BOREHOLE	:	

This decision is in response to applicants' "NOTIFICATION OF CORRECTION OF INVENTOR'S NAME" filed on 15 July 2003 indicating that the executed declaration filed on 15 July 2003 contains the correct spelling of the second inventors' name Bent AAONSEN.

The published PCT application and the first unexecuted declaration contained an error since Bent AAONSEN was misspelled as Bengt AAONSEN.

BACKGROUND

On 27 December 2002, applicants filed in the United States Patent and Trademark Office (PTO) a Transmittal Letter (Form PTO-1390) accompanied by, *inter alia*, the basic national fee. Applicant, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because no executed oath or declaration was filed at that time.

On 22 May 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and(b), identifying the application by International application number and international filing date" was required because the declaration does not comply with 37 CFR 1.68. The notification indicated that a new oath or declaration must be submitted within two (2) months from its 22 May 2003 date of mailing or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

BEST AVAILABLE COPY

On 15 July 2003, applicants submitted, *inter alia*, "Notification of Correction of Inventor's Name" and an executed declaration of the inventors. In the declaration section pertaining to the second named inventor, the name ANNONSEN Bengt appears. However, there is a non-initialized, non-dated alteration on the declaration correcting the given name to Bent, which is unacceptable.

DISCUSSION

The declaration of the inventors is not acceptable at this time, in that the name of the second named inventor has been improperly altered to reflect the correct second inventor's first given name. See 37 CFR 1.52

A proper response to this decision is a new oath or declaration in compliance with 37 CFR 1.497 with the correct spelling of the second inventor's given name. There is no petition fee for this correction.

CONCLUSION

For the reasons above, the application may not enter into national stage processing at this time.

A proper response must be filed within TWO (2) MONTHS from the mail date of this decision indicating the correct spelling of the second named joint inventor. The two (2) months time period for response may be extended under 37 CFR 1.136(a). Failure to timely file the proper response will result in ABANDONMENT.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office

Boris Milef
PCT Legal Examiner
PCT Legal Office

Telephone: (703) 308-6312
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07 MAR 2005

#10

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Michael S. Huppert
WENDEROTH, LIND & PONACK, LLP
2033 K Street, N.W., Suite 800
Washington, D.C. 20006-1021

In re Application of	:
Bjorn FINDEN, et al	: DECISION ON
Application No.: 10/312,501	:
PCT No.: PCT/NO01/00276	:
Int. Filing Date: 29 June 2001	: PETITION UNDER
Priority Date: 03 July 2000	:
Attorney Docket No.: 2002_1701A	:
For: METHOD AND APPARATUS FOR	: 37 CFR 1.181
PROVIDING A PRIMER WITH A...	:
IN A BOREHOLE	:

This decision is in response to applicants' "PETITION TO WITHDRAW HOLDING OF ABANDONMENT" filed on 12 November 2004, which is being treated as a petition under 37 CFR 1.181 requesting acceptance of a copy of the Declaration submitted as filed in the USPTO on 12 November 2003. Applicants have submitted, inter alia, a copy of the 12 November 2003 PTO stamped itemized postcard receipt.

BACKGROUND

In a decision from this Office on 17 September 2003, the decision stated that the declaration of the inventors was not acceptable at that time since the name of the second named inventor had been improperly altered.

On 10 November 2004, the DO/EO/US mailed a "NOTICE OF ABANDONMENT," which stated that the above-identified application was abandoned for failure to timely reply to the Decision on Petition mailed on 17 September 2003.

In response to the "NOTICE OF ABANDONMENT" mailed on 10 November 2004, applicants submitted on 12 November 2004 the instant petition requesting withdrawal of the "Notice of Abandonment." In support of the request, applicants have provided a copy of the returned/stamped receipt card acknowledging a receipt date of 12 November 2003, within the time period of response.

DISCUSSION

Applicants' present petition accompanied by a copy of the following document, filed purportedly with the PTO as indicated in the stamped postcard:

(1) Submission Executed Substitute Declaration

The postcard lists the above item and bears a USPTO date of stamp as 12 November 2003.

MPEP 503 provides:

> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Applicant's postcard is accepted as *prima facie* that a Declaration was timely deposited with the U.S. Patent and Trademark Office on 12 November 2003.

Accordingly, the date of receipt for the Declaration is 12 November 2003.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED.**

The NOTICE OF ABANDONMENT, mailed 10 November 2004 has been **VACATED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision. The 35 U.S.C.§ 371(c)(1), (c)(2), and (c)(4) date of this application as **12 November 2003**.

Rafael Bacares
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PCT Legal Office

for Boris Milef
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18 MAY 2004

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Connolly Bove Lodge & Hutz LLP
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Suite 800
Washington DC 20036-3425

In re Application of ALF PRYTZ Application No.: 10/312,511 PCT No.: PCT/SE01/01370 Int. Filing Date: 19 June 2001 Priority Date: 03 July 2000 Attorney's Docket No.: 20459-00355-WO For: METHOD AND ARRANGEMENT FOR PREVENTING ENCASED EXPLOSIVES BEING CAUSED TO EXPLODE BY AN EXTERNAL FIRE	DECISION ON SUBMISSION OF DECLARATION

This is a response to applicants' "Petition Under 37 CFR 1.181(a) for Withdrawal of Holding of Abandonment" filed in the United States Patent and Trademark Office (USPTO) via facsimile on 18 March 2004.

BACKGROUND

On 27 December 2002, applicants filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee.

On 16 June 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that an oath or declaration in compliance with 37 CFR 1.497 and the $130 surcharge was required.

On 14 August 2003, applicants via facsimile filed a declaration executed by the inventors, along with the $130 surcharge for filing the declaration after the 30 month period and an assignment.

On 19 February 2004, a Notification of Abandonment was mailed to applicant indicating that applicant had failed to respond to the Notification of Missing Requirements within the time period set therein.

On 18 March 2004, applicants, in response to the Notification of Abandonment, filed the instant communication, accompanied by, *inter alia*, a copy of the executed declaration/power of attorney and assignment, and a "Auto Reply Facsimile Transmission" issued by the USPTO on 14 August 2003.

DISCUSSION

The original declaration filed on 14 August 2003 is not located in the application file. A review of the finance records for 10/312,511 does not indicate that the $130 surcharge for filing the declaration after the thirty month period was paid.

The "Auto-Reply Facsimile Transmission" confirmation issued by the USPTO on 14 August 2003 indicates that 12 pages were received from the law firm Connolly Bove Lodge & Hutz. The facsimile cover sheet indicated that the certificate of transmission (1 page), Response to Notice to file Missing Requirements Application (1 page), and (1 dupl. copy), declaration (4 pages), copy of Notice to file Missing Parts (2 pages) and Supplemental Application Date Sheet (2 pages) were sent. The facsimile cover sheet indicated that $130 fee for the late declaration should be charged to applicant's deposit account.

The evidence submitted is sufficient to establish that the declaration was received in the USPTO on 14 August 2003. Accordingly, it is appropriate to accept the copy of the declaration as a replacement for the missing original declaration with a deposit date of 14 August 2003.

A review of the declaration filed on 14 August 2003 reveals that the declaration identifies the inventor, and states the residency, citizenship and mailing address of the inventor. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497(a) & (b) are met.

CONCLUSION

The copy of the declaration originally submitted on 18 March 2004 is acceptable and meets the requirements of 37 CFR 1.497(a) & (b). The $130 surcharge for filing the declaration after the thirty month period will be charged to applicant's deposit account.

The Notification of Abandonment (Form PCT/DO/EO/909) inadvertently mailed on 19 February 2004 is hereby **VACATED**.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing. The 35 U.S.C. 371 date is **14 August 2003.**

Cynthia M. Kratz

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Attorney Advisor
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25 JAN 2005

#6

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Richard Tushin
DYKEMA GOSSETT PLLC
1300 I Street, NW
Suite 300W
Washington, D.C. 20005

In re Application of:	:	
VOHRYZKA, Peter	:	
U.S. Application No.: 10/312,514	:	DECISION ON PETITION
PCT No.: PCT/AT01/00198	:	
International Filing Date: 21 June 2001	:	
Priority Date: 27 June 2000	:	
Attorney's Docket No.: 66376-312	:	
For: ERGOMETER	:	

This decision is issued in response to applicant's "Request For Notice Of Acceptance And Filing Receipt" filed 14 January 2005, which has been treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 21 June 2001, applicant filed international application PCT/AT01/00198 which claimed a priority date of 27 June 2000 and which designated the United States. On 03 January 2002, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB"). The deadline for payment of the basic national fee was thirty months from the priority date, i.e., 27 December 2002.

On 27 December 2002, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment for the basic national fee.

On 27 January 2003, applicants filed a "Submission Of Declaration" accompanied by an executed declaration and a verified translation of the international application.

On 24 March 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a translation into English of the international application and an oath or declaration in compliance with 37 CFR 1.497 were required.

On 24 April 2003, a the DO/EO/US mailed a Notification Of Defective Response (Form PCT/DO/EO/916) indicating that a translation of the international application into English was still required.

On 29 April 2003, applicant filed a "Response To Notification Of Defective Response" accompanied by an additional copy of the previously filed translation of the international application.

On 14 January 2005, applicant filed the "Request For Notice Of Acceptance And Filing Receipt" considered herein, seeking to confirm the 29 April 2003 filing of a response to the Notification Of Defective Response and requesting that a Notification Of Acceptance and filing receipt be issued.

DISCUSSION

A review of the application file confirms that an executed declaration in compliance with 37 CFR 1.497 and an English translation of the international application were both filed by applicant on 27 January 2003. The related surcharge and processing fees had previously been submitted by applicant on 27 December 2002.

Based on these submissions, the Notification Of Missing Requirements mailed 24 March 2003 and the Notification Of Defective Response mailed 24 April 2003, based as they were on applicant's purported failure to file the previously filed declaration and translation, are appropriately vacated.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 24 March 2003 and the "Notification OF Defective Response (Form PCT/DO/EO/916) mailed 24 April 2003 are hereby **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accord with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 27 January 2003.

Richard M. Ross
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PCT Legal Office
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NORRIS, MCLAUGHLIN & MARCUS, P.A.
875 THIRD AVE
18TH FLOOR
NEW YORK NY 10022

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OFFICE OF PETITIONS

In re Application of :
Si Han Kim :
Application No. 10/312,518 : ON PETITION
Filed: December 27, 2002 :
Attorney Docket No.: 101371-16

This is a decision on the petition filed May 3, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed October 3, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned January 4, 2006. Accordingly, a Notice of Abandonment was mailed April 12, 2006.

A review of the record reveals that a three month extension of time was filed with the instant petition, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $510.00 extension of time fee submitted with the petition on May 3, 2006, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 14-1263.

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

This matter is being referred to Technology Center 2165 for appropriate action on the amendment filed May 3, 2006.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

0 8 APR 2003

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Timothy M. Kelley
Michael Best & Friedrich, LLP
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In re Application of PLETTNER Application No.: 10/312,527 PCT No.: PCT/EP01/02572 Int. Filing Date: 07 March 2001 Priority Date: 24 March 2000 Attorney Docket No.: 041165-9029 For: METHOD FOR PRODUCING A CARRIER STRIP COMPRISING A LARGE NUMBER OF ELECTRICAL UNITS, EACH HAVING A CHIP AND CONTACT ELEMENTS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 27 December 2002 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition Under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has provided payment of the full, U.S. Basic National fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

As authorized, the $65.00 surcharge for providing a declaration later than 30 months from the claimed priority date and the $130.00 processing fee for providing an English translation of the International Application later than 30 months from the claimed priority date will be deducted from Deposit Account No.: 13-3080.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **27 December 2002**.

Derek A. Putonen
Attorney Advisor
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OFFICE OF PETITIONS

In re Application :
Ernest Wülfert et al. :
Application No. 10/312,533 : DECISION ON APPLICATION
Filed: March 26, 2003 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **373987-HF002US** :
(101742)

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 CFR § 1.705(b) filed January 15, 2010. Applicant requests that the determination of patent term adjustment be corrected from 294 days to 842 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]

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.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

---

[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.

07 APR 2003

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WASHINGTON, D.C. 20231
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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

In re Application of LUNDSTROM et al. Application No.: 10/312,553 PCT No.: PCT/AU01/00689 Int. Filing Date: 08 June 2001 Priority Date: 09 June 2000 Attorney Docket No.: P23100 For: A WHEEL MOUNTING APPARATUS	DECISION ON PETITION TO REVIVE UNDER 37 CFR.137(b)

The petition to revive under 37 CFR 1.137(b) filed 09 January 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that the "entire delay in entering the national stage was unintentional" has been interpreted as meaning that "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office.

A review of the application file reveals that the basic national fee of $530 has been paid. The required petition fee of $650 will be charged to applicant's deposit account per his authorization.. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing including issuance of a Notification of Missing Requirements indicating that an oath or declaration executed by the inventors and the surcharge for filing the oath or declaration after the thirty month period is required.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

CMK:cmk

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COLOPLAST A/S
Attention: Corporate Patents
Holtedam 1
DK-3050 Humlebaek,
DENMARK

Mail Date: 06/11/2010

Applicant	: John Stern Nielsen	: DECISION ON REQUEST FOR
Patent Number	: 7619130	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/312,568	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/13/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **128** 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.

11 MAR 2004

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Greenblum & Bernstein P.L.C.
1950 Roland Clark Place
Reston, VA 20191

In re Application of	:	
KHIANG, Wang Chen	:	
Application No.: 10/312,589	:	
PCT No.: PCT/SG02/00125	:	DECISION ON PETITION
Int. Filing Date: 19 June 2002	:	
Priority Date: 15 January 2001	:	
Attorney Docket No.: P23009	:	
For: PACKAGING OF A MICROCHIP DEVICE		

This decision is in response to applicant's "Petition for Withdrawal of Holding of Abandonment" filed on 14 January 2004, which is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 21 January 2003, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the basic national fee and an a preliminary amendment. Applicant included a copy of the description, claims, abstract, and drawings for the invention entitled "Packaging of a Microchip Device Gene."

On 14 March 2003, applicant filed an executed declaration and power of attorney.

On 09 December 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment (Form PCT.DO/EO/909) indicating that the above-identified application was abandoned because applicant failed to provide a complete copy of the international application.

On 14 January 2004, applicant filed the present petition to withdraw the holding of abandonment.

DISCUSSION

Petitioner states in the present petition, "[p]ursuant to the Notice of Abandonment issued on December 9, 2003, for failure to file a complete application/PCT Request, Applicant respectfully points out that the unpublished application/PCT Request application was filed on 21 January 2003 . . . Based on the timely filing of the International Application, the Holding of Abandonment is improper and should be withdrawn."

35 U.S.C. 371 *National stage: Commencement*, states, in part:

(a) Receipt from the International Bureau of copies of international applications with any amendments to the claims, international search reports, and international preliminary examination reports including any annexes thereto may be required in the case of international applications designating or electing the United States . . .

(c) The applicant shall file in the Patent and Trademark Office

> (2) a copy of the international application, unless not required under subsection (a) of this section or already communicated by the International Bureau, and a translation into the English language of the international application, if it was filed in another language;

(d) . . . The copy of the international application referred to in subsection (c)(2) shall be submitted by the date of the commencement of the national stage. **Failure to comply with these requirements shall be regarded as abandonment of the application by the parties thereof, unless it be shown to the satisfaction of the Director that such failure to comply was unavoidable.** (Emphasis added).

As stated above, applicant paid the basic national fee and submitted a copy of the description, claims, abstract and drawings for the invention entitled "Packaging of a Microchip Device Gene." Since a copy of the international application was not communicated to the United States Patent and Trademark Office from the International Bureau, applicants were obligated to provide a copy of the international application to the United States Patent and Trademark Office. According to 35 CFR 1.431, an international application shall contain, as specified by the Treaty and the Regulations, a Request, a description, one or more claims, and abstract, and one or more drawings (where required). (See also PCT Article 3.) Here, applicants have not provided a copy of the PCT Request (PCT/RO/101) for PCT/SG02/00125. Accordingly, neither the International Bureau nor the applicant submitted a copy of the international application by the date of commencement of the national stage, *i.e.*, 15 July 2003 and the application is abandoned.

Applicants may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(a) or (b) requesting that the application be revived. Any petition filed under 37 CFR 1.137(a) and/or a petition under 37 CFR 1.137(b) requesting that the application be revived must meet the criteria indicated in the recent revision of 37 CFR 1.137. This recommendation to file a petition under 37 CFR 1.137(a) or (b) should <u>not</u> be construed as an indication as to whether or not any such petition(s) will be favorably considered.

<u>CONCLUSION</u>

The Petition under 37 CFR 1.181 is **<u>DISMISSED</u>** without prejudice and the application **ABANDONED**.

If reconsideration of the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." No additional fee is required. Extensions of time under 37 CFR 1.136(a) are permitted.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (703) 308-6314
Fax: (703) 308-6459

09 SEP 2004

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Greenblum & Bernstein P.L.C.
1950 Roland Clark Place
Reston, VA 20191

In re Application of
KHIANG, Wang Chen
Application No.: 10/312,589
PCT No.: PCT/SG02/00125
Int. Filing Date: 19 June 2002
Priority Date: 15 January 2001
Attorney Docket No.: P23009
For: PACKAGING OF A MICROCHIP DEVICE

DECISION ON PETITION

The petition to revive under 37 CFR 1.137(b) filed 19 May 2004 in the above-captioned application is hereby GRANTED as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the proper response (a copy of the international application) and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **19 May 2004**.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (703) 308-6314
Facsimile: (703) 308-6459

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DILLER, RAMIK & WRIGHT, P.C.
MERRION SQUARE SUITE 101
7345 MCWHORTER PLACE
ANNANDALE VA 22003

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OFFICE OF PETITIONS

In re Application of
Busley, et al.
Application No. 10/312,622
Filed: July 30, 2003
For: CONSTRUCTION MACHINE FOR MACHINING FLOOR SURFACES

: DECISION ON PETITION

This is a decision on the petition, filed August 12, 2008, under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit a proper reply to the non-final Office action mailed November 2, 2007. The non-final Office action set a three (3) month statutory period for reply. Notice of Abandonment was mailed May 28, 2008.

Petitioners allege non-receipt of the non-final Office action mailed November 2, 2007 and assert that the Office mailed the non-final Office action to the wrong correspondence address.

A review of the record reveals that on December 17, 2003, the Office errantly change the correspondence address in the instant application. As a consequence of the Office action being mailed to an incorrect correspondence address, it failed to reach applicants in sufficient time to permit a timely reply.

In view thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The correspondence address has been properly restored.

This application is being forwarded to Group Art Unit 3672 for re-mailing of the non-final Office action. The time period for reply will be set in the newly mailed non-final 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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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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WADDEY & PATTERSON, P.C.
1600 DIVISION STREET, SUITE 500
NASHVILLE, TN 37203

Mail Date: 04/20/2010

Applicant	: Peter Busley	: DECISION ON REQUEST FOR
Patent Number	: 7644994	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/312,622	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/30/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1688** 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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MCDERMOTT WILL & EMERY
600 13TH STREET NW
WASHINGTON DC 20005-3096

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OFFICE OF PETITIONS

In re Application of
FUCHS, Alexander V. et al.
Application No. 10/312,629
Filed: September 25, 2003
Attorney Docket No. **50370-035**

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 04, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to MCDERMOTT WILL & EMERY has been revoked by the applicant of the patent application on October 27, 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 Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **KLAUS J. BACH**
4407 TWIN OAKS DRIVE
MURRYSVILLE, PA 15668

01 FEB 2005

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Herbert I. Cantor
Crowell & Moring, LLP
Intellectual Property Group
P.O. Box 14300
Washington, DC 20044-4300

In re Application of	:	
MINAKATA, et al.	:	
Application No.: 10/312,637	:	DECISION ON PETTION
Filing Date: 30 December 2002	:	
Atty. Docket No.: 037181.51917US	:	UNDER 37 CFR 1.181
For: NOVEL GONADOTROPIN-RELEASING HORMONE, PRECURSOR PEPTIDES THEREOF AND GENES ENCODING THE SAME	:	

This is a decision on applicant's "Response to Notification to Comply With Requirements For Patent Applications" filed 29 December 2003 in the United States Patent and Trademark Office (USPTO). The request is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 29 June 2001, applicant filed international application PCT/JP01/05607 which claimed priority to an earlier application filed 30 June 2000. The thirty-month period for paying the basic national fee in the United States expired at midnight on 30 December 2002.

On 30 December 2002, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application; a first preliminary amendment; an executed declaration of the inventors and a statement under 37 CFR 1.821(f) with attached diskette.

On 15 December 2003, applicant was mailed a "Notification to Comply With Requirements For Patent Application Containing Nucleotide And/Or Amino Acid Sequence Disclosures" (Form PCT/DO/EO/922) informing applicant that a copy of the "Sequence Listing" in computer readable form has not been submitted. Applicant was afforded two months to file a proper response.

On 30 December 2003, applicant filed the correspondence discussed herein.

DISCUSSION

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicant has provided a copy of the date-stamped postcard receipt. The postcard identifies the application by inventor and docket number. Among the items listed on the receipt is: "Statement Under 37 CFR 1.821(f) w/attached diskette." The postcard is stamped "DT07 Rec'd PCT/PTO 30 DEC 2002 10/312637." The evidence is sufficient to establish that the CRF diskette was received in the USPTO on 30 December 2002. However, applicant has not supplied a copy of the originally filed diskette attesting that it is a true and complete copy of the diskette originally filed on 30 December 2002. As such, it is not possible to grant applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **DISMISSED without prejudice**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

10 MAR 2005

#7

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Herbert I. Cantor
Crowell & Moring, LLP
Intellectual Property Group
P.O. Box 14300
Washington, DC 20044-4300

In re Application of MINAKATA, et al. Application No.: 10/312,637 Filing Date: 30 December 2002 Atty. Docket No.: 037181.51917US For: NOVEL GONADOTROPIN-RELEASING HORMONE, PRECURSOR PEPTIDES THEREOF AND GENES ENCODING THE SAME	DECISION ON RENEWED PETITION UNDER 37 CFR 1.181

This is a decision on applicant's "Supplemental Response to Notification to Comply With Requirements For Patent Applications" filed 15 December 2004 and "Renewed Petition Under 37 CFR 1.181 filed 16 February 2005 in the United States Patent and Trademark Office (USPTO). No petition fee is due.

BACKGROUND

On 01 February 2005, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.181 regarding the previous filing of a computer readable format (CRF) of the sequence listing as a copy of the diskette was missing.

On 16 February 2005, applicant filed the present renewed petition.

DISCUSSION

The 15 December 2004 filing has been located in the USPTO and matched to the present national stage application. In addition, a review of the "Raw Sequence Listing" report from the Biotechnology Systems Branch of the Scientific and Technical Information Center (STIC) finds that no errors were detected in the CRF diskette and that it has been entered. As such, it is proper to grant applicant's renewed petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The application has an international filing date of 29 June 2001 under 35 U.S.C. 363 and will be given a date of **30 December 2002** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Kolisch Hartwell, P.C.
520 S.W. Yamhill Street
Suite 200
Portland, OR 97204

In re Application of
Richard N. Fearn, et al.
Application No. 10/312,645
Filed: March 5, 2003
For: CONCRETE WALL SYSTEM USING FABRIC

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply applicants' Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 filed in the United States Patent and Trademark Office on October 5, 2004.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a proper response to the Office action dated January 15, 2004. The application became abandoned on July 15, 2004, and a Notice to that effect was mailed on September 20, 2004.

Petitioner states that a response was filed using First Class Mail on February 17, 2004. In support thereof petitioner has included a copy of a response bearing a Certificate of Mailing signed by George Painter, and dated February 17, 2004. Petitioner has also included a copy of the activity log for the above-noted application, and a copy of a billing record. Neither the activity log, nor the billing record provides adequate evidence, and applicant must rely on the Certificate of Mailing to show that the response was timely filed.

Any petition to withdraw the holding of abandonment based upon a Certificate of Mailing must include the following requirements:

(1) A copy of the original response bearing a signed Certificate of Mailing which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of mailing the *original* response on the date indicated on the Certificate of Mailing (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above the petition fails, under requirement (2), to also include a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of sending the *original* response by mail on the date indicated on the certificate, by the person who signed the certificate, in this instance, George Painter.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/rwg: 11/29/04

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JUN 2 2005

#12

Anton Skaugset
Kolisch Hartwell, P.C.
520 S.W. Yamhill Street, Suite 200
Portland, OR 97204

In re Application of
Richard Fearn et al.
Application No. 10/312,645
Filed: March 5, 2003
For: CONCRETE WALL FORMING SYSTEM USING FABRIC

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 received in the United States Patent and Trademark Office on February 3, 2005.

The petition is **GRANTED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a response to the Office action mailed January 15, 2004, which set a one-month shortened statutory period. The application became abandoned at midnight on Februrary 15, 2004, and a Notice to that effect was mailed on September 20, 2004.

A petition to withdraw holding of abandonment was filed on October 5, 2004. That petition was dismissed in a decision mailed December 2, 2004 wherein it was held that the petition lacked a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of mailing the response on the date indicated on the certificate, by the person who signed the certificate.

The renewed petition includes a statement by George Painter which attests to the personal knowledge of mailing the response on the date indicated on the Certificate of Mailing. This is sufficient evidence of a timely response.

Since a timely response to the Office action was filed, the holding of abandonment is withdrawn and the application is restored to pending status. The application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, and then to the Examiner for prompt action on the merits of the application.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6611

SNM/js: 5/24/05

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ONE LIBERTY PLACE, SUITE 4900
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PHILADELPHIA, PA 19103

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OFFICE OF PETITIONS

In re Application of
Yukio Kawazu et al
Application No. 10/312,683
Filed: March 10, 2003
Attorney Docket No. 1529-02

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed July 29, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

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 24, 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 1773 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).

01 APR 2003
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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Lerner and Greenberg
P.O. Box 2480
Hollywood, Florida 33020-2480

In re Application of	:	
TRAYFORD et al.	:	
Serial No.: 10/312,702	:	
PCT No.: PCT/AU01/00758	:	
Int. Filing Date: 26 June 2001	:	DECISION ON PETITION
Priority Date: 26 June 2000	:	
Atty. Docket No.: ECMS-9900	:	
For: METHOD AND SYSTEM FOR	:	
PROVIDING TRAFFIC AND	:	
RELATED INFORMATION	:	

This is a decision on applicants' "Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)" filed on 17 March 2003. The petition fee has been submitted.

BACKGROUND

On 26 June 2001, applicants filed international application no. PCT/AU01/00758 which claimed a priority date of 26 June 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 03 January 2002. A Demand was filed with the International Preliminary Examination Authority prior to the 19th month from the earliest claimed priority date. As a result, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or at midnight on 26 December 2002.

On 26 December 2002, applicants filed a Transmittal Letter for entry into the national stage accompanied, *inter alia,* by: a copy of the international application; a preliminary amendment; and an unexecuted declaration.

On 29 January 2003, the United States Designated/Elected Office mailed a Notification of Abandonment under 37 CFR 1.495 (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to provide the full U.S. Basic National Fee by 30 months (37 CFR 1.495(b)(2)).

On 17 March 2003, applicants filed "Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)" which was accompanied by an executed declaration and power of attorney.

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 required pursuant to 37 CFR 1.137(c).

With regard to Item (1), the proper response was the payment of the basic national fee of $450.00. A review of the application reveals that applicants have not filed the basic national fee of $450. Since the petition did not include an authorization to charge any additional fees to counsel's deposit account, the national fee is considered to be unpaid.

As to Item (2), the appropriate petition fee of $650.00 as required by 37 CFR 1.17(m) was submitted.

With regard to Item (3), applicants' statement that "entire delay in filing the 35 U.S.C. 371(c) requirement from their due date until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" 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.

CONCLUSION

For the reasons above, the petition is **DISMISSED** without prejudice.

The application remains **ABANDONED** with regards to national stage processing in the United States.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.

Applicant is advised that, effective May 1, 2003, the Office is changing its correspondence address. Any further correspondence with respect to this matter deposited with the United States Postal Service on or after May 1, 2003 should be addressed to the

Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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11 JUN 2003

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UNITED STATES PATENT AND TRADEMARK OFFICE

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Lerner and Greenberg
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Hollywood, Florida 33020-2480

In re Application of	:	
TRAYFORD et al.	:	
Serial No.: 10/312,702	:	
PCT No.: PCT/AU01/00758	:	
Int. Filing Date: 26 June 2001	:	DECISION ON PETITION
Priority Date: 26 June 2000	:	
Atty. Docket No.: ECMS-9900	:	
For: METHOD AND SYSTEM FOR	:	
PROVIDING TRAFFIC AND	:	
RELATED INFORMATION	:	

This is a decision on applicants' "Renewed Petition under 37 CFR 1.137(b)" filed on 21 April 2003 and "Letter" filed via facsimile on 10 June 2003. The petition fee has been submitted.

BACKGROUND

On 26 June 2001, applicants filed international application no. PCT/AU01/00758 which claimed a priority date of 26 June 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 03 January 2002. A Demand was filed with the International Preliminary Examination Authority prior to the 19th month from the earliest claimed priority date. As a result, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or at midnight on 26 December 2002.

On 26 December 2002, applicants filed a Transmittal Letter for entry into the national stage accompanied, *inter alia,* by: a copy of the international application; a preliminary amendment; and an unexecuted declaration.

On 29 January 2003, the United States Designated/Elected Office mailed a Notification of Abandonment under 37 CFR 1.495 (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to provide the full U.S. Basic National Fee by 30 months (37 CFR 1.495(b)(2)).

On 17 March 2003, applicants filed "Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)" which was accompanied by an executed declaration and power of attorney. In a decision dated 01 April 2003, applicants' petition under 37 CFR 1.137(b) was dismissed without prejudice.

On 21 April 2003, applicants filed "Renewed Petition under 37 CFR 1.137(b)."

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

With regard to Item (1), the proper response was the payment of the basic national fee of $530.00.

As to Item (2), the appropriate petition fee of $650.00 as required by 37 CFR 1.17(m) was submitted.

With regard to Item (3), applicants' statement that "entire delay in filing the 35 U.S.C. 371(c) requirement from their due date until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" 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.

CONCLUSION

All of the requirements of 37 CFR 1.137(b) have been met and applicant's petition to revive is **GRANTED**.

The application has an international filing date of 26 June 2001 under 35 U.S.C. 363 and a 35 U.S.C. 371(c) date of **17 March 2003**.

This application is being returned to the United States/Elected Office for processing in accordance with this decision.

Anthony Smith

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07 SEP 2006

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ARLINGTON VA 22202

In re Application of BADAWY Serial No.: 10/312,733 PCT App. No.: PCT/GB01/02930 Int'l Filing Date: 02 July 2001 Priority Date: 30 June 2000 Attorney Docket No.: 803.98.P407 For: METHODS AND COMPOSITION FOR THE TREATMENT OF ALCOHOLISM AND ALCOHOL DEPENDENCE	DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on applicant's "Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181 ", filed in the US Patent and Trademark Office on 25 August 2004. No petition fee is required.

BACKGROUND

On 30 December 2002, applicant requested entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee.

On 03 July 2003, the Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that oath or declaration, in compliance with 37 CFR 497(a) and (b) and executed by the inventor, was required . The notification set a TWO (2) MONTH period for response.

On 16 August 2004, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating, that the application went abandoned for failure to respond to the Notification of Missing Requirements mailed 03 July 2003.

On 25 August 2004, applicant filed the present petition requesting that the Office withdraw the holding of abandonment as the applicant had timely replied to the Notification of Missing Requirements. The petition was accompanied by a copy of the cover letter and of the declaration alleged to have been mailed 26 August 2003.

DISCUSSION

The original declaration filed on 26 August 2003 is not located in the application file.

As stated in section 503 of the Manual of Patent Examining Procedure (Oct.

2005)(MPEP):

> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

A review of the USPTO date-stamped, itemized postcard receipt indicates that the executed declaration was deposited with the USPTO on 26 August 2003.

The evidence submitted is sufficient to establish that a declaration for this application was received in the USPTO on 26 August 2003. The communication filed 25 August 2004 includes a copy of the executed declaration. Accordingly, it is appropriate to accept the copy of the declaration as a replacement for the missing original declaration with a deposit date of 26 August 2004. The evidence submitted by applicant, the postcard receipt date stamped by the USPTO, is sufficient to overcome the *prima facie* evidence of the application file itself. Moreover, the $65 surcharge incurred when filing the oath or declaration after the thirty month period was paid on 30 December 2002. Based upon the evidence, the Notification of Abandonment (Form PCT/DO/EO/909) mailed on 16 August 2004 is vacated.

A review of the declaration reveals that the declaration identifies the inventors, and states the citizenship and mailing address of the inventors. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497 are met.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED**.

The copy of the declaration originally submitted on 26 August 2003 and resubmitted on 25 August 2004 is acceptable and meets the requirements of 37 CFR 1.497(a) & (b).

The 16 August 2004 Notification of Abandonment (Form PCT/DO/EO/909) is hereby **VACATED**.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) & (c)(4) date is **26 August 2003.**

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