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Washington, DC 20005-4051

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FEB 28 2008

OFFICE OF PETITIONS

In re Application of	:	
Torben F. Orntoft et al.	:	
Application No. 10/312,743	:	DECISION ON PETITION
Filed: March 11, 2003	:	TO WITHDRAW
Attorney Docket No. 006148.00003	:	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 24, 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 A. Kagan on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the

Office (e.g., reel and frame number). The power of attorney filed on October 23, 2007 does not include one of the above two options.

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: **Torben F. Orntoft**
Helfesvej 19
Aabyhoj, DK-8230
Denmark

cc: **Edwards Angell Palmer & Dodge LLP**
111 Huntington Avenue
Boston, MA 02199-7613

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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
10/312,743	03/11/2003	Torben F Orntoft	006148.00003

CONFIRMATION NO. 3053

POA ACCEPTANCE LETTER

22907
BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

OC000000028566880

Date Mailed: 02/29/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/29/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/tswilliams/

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

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IRVING M. WEINER
WEINER & BURT
PO BOX 186
635 N US-23
HARRISVILLE MI 48740

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MAY 22 2007

OFFICE OF PETITIONS

In re Application of	:	
Lyapko	:	
Application No. 10/312,744	:	DECISION GRANTING PETITION
Filed: December 27, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. PAA-104-A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 29, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of May 19, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 3731.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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MAY 20 2009

OFFICE OF PETITIONS

In re Application of	:	
Lyapko	:	
Application No. 10/312,744	:	DECISION ON PETITION
Filed: December 27, 2002	:	
Attorney Docket No. PAA-104-A	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 6, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed September 22, 2008, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 3731 for appropriate action by the Examiner in the normal course of business on the reply received April 6, 2009.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/312,762	07/14/2003	Torsten Ronn	20459-0362-US	5158

30678 7590 04/08/2008
CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON, DC 20036

EXAMINER
RADI, JOHN A

ART UNIT	PAPER NUMBER
3641	

MAIL DATE	DELIVERY MODE
04/08/2008	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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TECHNOLOGY CENTER 3600

CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON DC 20036

APPLICANT: Torsten Ronn et al.
SERIAL NO. 10/312,762 : PETITION FOR WITHDRAWAL
FILED: July 14, 2003 : OF FINALITY OF ACTION
FOR: MODULAR WARHEAD FOR UNITS OF AMMUNITION SUCH AS MISSILES

This is in response to the petition filed on January 11, 2006 for withdrawal of the finality of the final office action mailed 11/23/2005.

The petition is DISMISSED as Moot.

FACTS

On November 23, 2005, the examiner issued a final office action. On January 11, 2006, the instant petition was filed. On February 21, 2006 a notice of allowance was mailed and the application subsequently issued as a U.S. patent.

DECISION

In light of the fact that the above-identified application issued as a U.S. patent, the matter concerning the finality of the office action has been rendered moot.

Applicants petition is DISMISSED as MOOT.

Any question concerning this decision should be referred to SPE Michael Carone at 571-272-6873.

Donald Hajec
Director, TC 3600
(571) 272-5150

Mc/sm: 4/2/08
SM

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OCT 25 2005

MILLEN WHITE, ZELANO & BRANNIGAN, PC
2200 CLARENDON BLVD, SUITE 1400
ARLINGTON, VA 22201

In re Application of	:
Jonas Rochus et al	:
Serial No.: 10/312,766	: PETITION DECISION
Filed: June 9, 2003	:
Attorney Docket No.: BARD-13	:

This is in response to the petition under 37 CFR 1.181, filed April 13, 2005, requesting withdrawal of the examiner's objection to the specification. The delay in acting on this petition is regretted, however it was not brought to the deciding officials attention until recently.

BACKGROUND

A review of the file history shows that the examiner mailed a non-Final Office action to applicant on October 22, 2004, setting a three month shortened statutory period for reply. The Office action set forth an objection to the specification for incorporation of essential subject matter by reference as being improper. The examiner asserted that the material would be essential for any pharmacologist attempting to assay applicants' compounds. Various rejections under 35 U.S.C. 112, first and second paragraphs, were also set forth. No art rejections were made.

Applicants replied on December 16, 2004, amending the claims and adding new claims. The rejections were appropriately replied to and applicants argued with respect to the objection to the specification that the matter referenced was conventional material and need not be incorporated into the specification and that none of the material was essential matter.

The examiner mailed a Final Office action to applicant on February 17, 2005, in which claims 6, 15 and 16 were again rejected under 35 U.S.C. 112, second paragraph, and claims 6-8 and 15-18 were rejected under 35 U.S.C. 112, first paragraph. Claim 1-5 and 10-14 were indicated allowable. The examiner continued the objection to the specification again asserting the details of the assay are essential for a pharmacologist or physician assessing the potency of the compounds. The examiner further stated that the assays are not familiar to the examiner and that applicants assertion that they are well known is not sufficient and that the references relied upon are not of record or readily available.

Applicants filed this petition on April 13, 2005, requesting relief from the examiner's requirement. A Notice of Appeal was filed on June 7, 2005.

DISCUSSION

Applicants assert that the references relied on in the specification to provide assays relating to potency of the compounds as drugs are well known and as part of the petition provide copies of the references. The references relied on are from the Journal of Urology (1993), Biochemistry (1971), Biochemistry (1979), and WO 93/06104 (1993). As noted by applicants all of the referenced publications are readily available to examiners in the Office and other practitioners. None of the references has a publication date later than 1993, thus suggesting that the concepts and testing procedures taught therein are know, if not well known, thus refuting the examiner's argument. That the particulars are not known or familiar to the examiner is of little import since they are clearly described and readily available to one looking for them. Applicants have referenced standard testing and assay procedures from well known and readily available journals or publications. One of ordinary skill in the art would find these procedures without undue effort and be able to use them in practicing the invention.

It is further noted that the claims are directed to a compound or pharmaceutical composition, a method of making it and a method of using it. Only the latter would be affected by the incorporation of the material into the specification and then only to determine how effective the treatment against a particular disease or condition was. It is also noted that the claims recite use only of an effective amount which could vary depending on the condition or disease treated.

The petition is **GRANTED.**

The examiner's requirement to incorporate the identified essential matter into the specification is withdrawn. Applicants remain under obligation to file an appropriate Appeal Brief within the time period provided therefore, or as extended under 37 CFR 1.136(a) or take other appropriate action.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.

George C. Elliott

George C. Elliot
Director, Technology Center 1600

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NOVAK DRUCE DELUCA & QUIGG, LLP
1300 EYE STREET NW
SUITE 400 EAST
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Dames et al.	:	
Application No. 10/312,780	:	ON PETITION
Filed: 30 December, 2002	:	
Atty Docket No. 51529	:	

This is a decision on the petition filed on 17 December, 2004, which requests under 37 C.F.R. §1.182 that a previously filed terminal disclaimer be withdrawn. The petition fee has been received.

The petition is granted to the extent indicated.

Petitioner asserts that the terminal disclaimer filed 21 June, 2004, is no longer required.

A review of the Official file reveals that no Terminal Disclaimer filed on 21 June, 2004, is located among the papers received on that date. Nevertheless, should said Terminal Disclaimer be matched with the application file subsequent to the granting of the present petition, said Terminal Disclaimer is hereby withdrawn and is of no force and effect.

The address listed on the petition filed on 17 December, 2004, is different than the correspondence address of record. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

This application is being referred to Technology Center Art Unit 1712 for further processing consistent with this decision.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc: KEIL & WEINKAUF
1350 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036

01 APR 2004

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APR 05 2004

SHERIDAN, ROSS

Paul S. Cha
Sheridan Ross, P.C.
1560 Broadway, Suite 1200
Denver, Colorado 80202-5141

In re Application of
LEE
Application No.: 10/312,787
PUT No.: PCT/KR01/01097
Int. Filing Date: 27 June 2001
Priority Date: 29 June 2000
Attorney Docket No.: 48191IM-1
For: A COVER FOR GOLF CLUB PROTECTION

DECISION ON PETITION

UNDER 37 CFR 1.42

This decision is in response to the applicant's correspondence filed 01 December 2003 in the United States Patent and Trademark Office (USPTO). The correspondence is being treated as a request for status under 37 CFR 1.42. No petition fee is due.

BACKGROUND

On 27 June 2001, applicant filed international application PCT/KR01/01097 which claimed priority to an earlier application filed 29 June 2000. The thirty-month period for paying the basic national fee in the United States expired at midnight on 29 December 2003. 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).

On 23 May 2003, applicant was mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) informing applicant that an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. Applicant was afforded two months to file the required response and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 21 October 2003, applicant filed a response including a declaration identifying the inventor as Hyun IM.

On 30 October 2003, applicant was mailed a "Notification of Defective Response" (Form PCT/DO/EO/916) indicating that the filed declaration did not comply with 37 CFR 1.497(a)-(b). Applicant was afforded one month to file a proper response.

On 01 December 2003, applicant filed the present response including an executed

combined declaration and power of attorney. 30 November 2003 being a Sunday, applicant's response is considered timely filed.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

The declaration submitted on 01 December 2003 was executed by Hyun IM as heir to the deceased inventor, Kyesook LEE. However, neither the filed declaration nor the accompanying cover letter states that Mr. IM is the sole heir to the estate, thus their may be other heirs who are required to execute the declaration. The cover letter states that Mr. IM is the legal representative (heir) of the estate. In order to proceed with national stage processing a signed statement is required from either counsel or Mr. IM stating either that he is the legal representative of the estate or that he is the sole heir. Should it be determined that Mr. IM is the sole heir, applicant is required to provide a statement that the declaration has been executed by all of the heirs of the deceased inventor and that a legal representative has not been appointed nor is statutorily required to be appointed.

CONCLUSION

Applicant's petition under 37 CFR 1.42 is **DISMISSED, without prejudice**.

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b). Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.42." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: 703-305-0130
Fax: 703-308-6459

07 JUN 2004

#9

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Paul S. Cha
Sheridan Ross, P.C.
1560 Broadway, Suite 1200
Denver, Colorado 80202-5141

In re Application of	:	
LEE	:	DECISION ON RENEWED
Application No.: 10/312,787	:	
PUT No.: PCT/KR01/01097	:	PETITION UNDER
Int. Filing Date: 27 June 2001	:	
Priority Date: 29 June 2000	:	37 CFR 1.42
Attorney Docket No.: 48191IM-1	:	
For: A COVER FOR GOLF CLUB	:	
PROTECTION	:	

This decision is in response to the applicant's correspondence filed 26 April 2004 in the United States Patent and Trademark Office (USPTO). The correspondence is being treated as a renewed petition under 37 CFR 1.42. No petition fee is due.

BACKGROUND

On 01 April 2004, applicant was mailed a decision dismissing applicant's request for status pursuant to 37 CFR 1.42. Applicant was afforded two months to file any request for reconsideration.

On 26 April 2004, applicant filed the response considered herein.

DISCUSSION

37 CFR 1.42 When the Inventor is Dead, states, in part:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

A review of the presently filed papers finds that applicant has submitted a compliant declaration of the inventor. The declaration is executed by Hyun IM as the legal representative of the estate of the deceased inventor, Kyesook LEE. The declaration provides the residence, mailing address and citizenship for both the deceased inventor and the legal representative.

Therefore, it is appropriate to grant applicant's renewed request at this time.

CONCLUSION

Applicant's renewed request for status under 37 CFR 1.42 is **GRANTED**.

This application will be given an international application filing date of 27 June 2001 and a date of **26 April 2004** under 35 U.S.C. 371.

This application is being returned to the DO/EO/US for processing in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: 703-305-0130
Fax: 703-308-6459

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Charles D. Holland
MORRISON & FOERSTER LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

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JUN 0 5 2005

Technology Center 2100

In re Application of:	)	
Anderson, et al.	)	
Application No. 10/312,807	)	
Filed: March 24, 2003	)	**DECISION ON REQUEST FOR**
For: DATA PROCESSING	)	**WITHDRAWAL AS ATTORNEY**
ARCHITECTURE	)	
	)	

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1. 36 and 10.40(c) filed December 06, 2004.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1. 36 was filed on March 07, 2005. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Beyer Weaver & Thomas, LLP as the attorneys of record of the instant application. The Power Of Attorney filed March 07, 2005 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Beyer Weaver & Thomas, LLP.

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

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

Michelle R. Eason for

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

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Paper No.

BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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OFFICE OF PETITIONS

In re Patent No. 7,085,683	:	
Anderson et al.	:	
Issue Date: August 1, 2006	:	DECISION ON
Application No. 10/312,808	:	PETITION
Filed: March 28, 2003	:	
Attorney Docket No. MADDP006	:	

This is a decision on the PETITION FOR DUPLICATE LETTERS PATENT filed August 3, 2007. The petition is supported by affidavits showing that the original Letters Patent was lost in transit to the assignees. The petition has been made by an appropriate party in interest, i.e., an attorney of record and includes the petition fee of $400.

Accordingly, the petition is **GRANTED**.

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

Any questions concerning this matter may be directed to the undersigned at (571) 272 - 3219. Any questions concerning issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 308-9250 x 139.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent. The patent file is being forwarded to Files Repository.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

cc: Krystal Paige, P/OPPD, South Tower, 8th Floor, Room C-32
(FAX) 571-270-9937

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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

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OFFICE OF PETITIONS

In re Patent No. 6,960,238	:	
Issued: 1 November, 2005	:	
Application No. 10/312,811	:	ON PETITION
Filed: 4 March, 2003	:	
Atty Dckt No. P/3240-78	:	

This is a decision on the petition filed on 13 February, 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 petition is **granted**.

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

22 APR 2003

#4

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Michael E. Fogarty
McDermott, Will & Emery
600 13th Street, NW
Washington, D.C. 20005-3096

In re Application of
KAMAZAKI et al.
Application No.: 10/312,812
PCT No.: PCT/JP02/01275
Int. Filing Date: 14 February 2002
Priority Date: 15 February 2001
Attorney Docket No.: 43888-223
For: POLYMER ELECTROLYTE FUEL CELL

DECISION ON
PAPERS UNDER 37 CFR 1.42

This is a response to the declaration filed 31 December 2002 which is being treated as a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 14 February 2002, applicants filed international application PCT/JP02/01275, which claimed a priority date of 15 February 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 22 August 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 15 August 2003.

On 31 December 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; an English translation of the international application; a preliminary amendment; and an executed declaration. The declaration is executed by eight of the nine inventors and Masayo Sugou on behalf of deceased inventor, Tatsuto Yamazaki.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The declaration filed 31 December 2002 is executed by executed by eight of the nine inventors and Masayo Sugou as the "legal representative" of the deceased inventor, Tatsuto Yamazaki. The declaration submitted appears to have been executed by the proper party under 37 CFR 1.42, however, the declaration does not satisfy the requirements under 37 CFR 1.497(b)(2).

37 CFR 1.497(b)(2) states the following:

> (2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to revised 37 CFR 1.497(b)(2), in addition to the citizenship and former residence and post office address of the deceased inventor referenced under 37 CFR 1.497(a)(3) and 37 CFR 1.63, the declaration must also provide residence, citizenship, and post office address for the legal representative. The declaration filed on 31 December 2002 provides the residence, citizenship, and post office address for only one individual and it is unclear whether this information is for the legal representative or the deceased inventor. Accordingly, the declaration is not in compliance with 37 CFR 1.497(b)(2).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is REFUSED.

Applicants are required to provide an oath/declaration in compliance with 37 CFR 1.497(a)-(b) within **TWO (2) MONTHS** from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Any further correspondence with respect to this matter should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42" and be addressed to the Assistant 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.

Applicants are 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.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
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#6

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13 MAY 2003

Michael E. Fogarty
McDermott, Will & Emery
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Washington, D.C. 20005-3096

In re Application of
KAMAZAKI et al.
Application No.: 10/312,812
PCT No.: PCT/JP02/01275
Int. Filing Date: 14 February 2002
Priority Date: 15 February 2001
Attorney Docket No.: 43888-223
For: POLYMER ELECTROLYTE FUEL CELL

DECISION ON
PAPERS UNDER 37 CFR 1.42

This is a response to the declaration filed 29 April 2003 which is being treated as a renewed request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 14 February 2002, applicants filed international application PCT/JP02/01275, which claimed a priority date of 15 February 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 22 August 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 15 August 2003.

On 31 December 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; an English translation of the international application; a preliminary amendment; and an executed declaration. The declaration is executed by eight of the nine inventors and Masayo Sugou on behalf of deceased inventor, Tatsuto Yamazaki. In a decision dated 22 April 2003, applicants' request was dismissed because the declaration was defective under 37 CFR 497.

On 29 April 2003, applicants filed the present renewed request under 37 CFR 1.42.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The declaration filed 29 April 2003 is executed by executed by Masayo Sugou as the "legal representative" of the deceased inventor, Tatsuto Yamazaki. The declaration submitted appears to have been executed by the proper party under 37 CFR 1.42, however, the declaration does not satisfy the requirements under 37 CFR 1.497(b)(2).

37 CFR 1.497(b)(2) states the following:

> (2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to revised 37 CFR 1.497(b)(2), in addition to the citizenship and former residence and post office address of the deceased inventor referenced under 37 CFR 1.497(a)(3) and 37 CFR 1.63, the declaration must also provide residence, citizenship, and post office address for the legal representative. The declaration filed on 29 April 2003 provides the citizenship for only one individual and it is unclear whether this information is for the legal representative or the deceased inventor. Accordingly, the declaration is not in compliance with 37 CFR 1.497(b)(2).

CONCLUSION

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

Applicants are required to provide an oath/declaration in compliance with 37 CFR 1.497(a)-(b) within **TWO (2) MONTHS** from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Any further correspondence with respect to this matter should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42" and 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

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27 MAY 2004

#8

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In re Application of	:	
KAMAZAKI et al.	:	
Application No.: 10/312,812	:	DECISION ON
PCT No.: PCT/JP02/01275	:	PAPERS UNDER 37 CFR 1.42
Int. Filing Date: 14 February 2002	:	
Priority Date: 15 February 2001	:	
Attorney Docket No.: 43888-223	:	
For: POLYMER ELECTROLYTE FUEL CELL		

This is a response to the declaration filed 01 October 2003 which is being treated as a renewed request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 14 February 2002, applicants filed international application PCT/JP02/01275, which claimed a priority date of 15 February 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 22 August 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 15 August 2003.

On 31 December 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; an English translation of the international application; a preliminary amendment; and an executed declaration. The declaration is executed by eight of the nine inventors and Masayo Sugou on behalf of deceased inventor, Tatsuto Yamazaki. In a decision dated 22 April 2003, applicants' request was dismissed because the declaration was defective under 37 CFR 497.

On 29 April 2003, applicants filed a renewed request under 37 CFR 1.42. In a decision dated 13 May 2003, applicants' request was dismissed because the declaration was defective under 37 CFR 497.

On 01 October 2003, applicant filed the present renewed request under 37 CFR 1.42.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The declaration filed 01 October 2003 is executed by Masayo Sugou as the "legal representative" of the deceased inventor, Tatsuto Yamazaki. The declaration is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b). Accordingly, the requirements for entry into the national stage under 35 U.S.C. were completed as of 01 October 2003.

CONCLUSION

The papers filed under 37 CFR 1.42 are ACCEPTED.

The application has an international filing date of 14 February 2002, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **01 October 2003**.

Deposit Account No. 50-0417 has been charged $930 for a three-month extension of time fee and a $130.00 surcharge fee under 37 CFR 492(e) for supplying an oath or declaration later than 30 months from the earliest claimed priority date.

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.

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FOLEY & LARDNER, LLP
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

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FEB 1 1 2008

OFFICE OF PETITIONS

In re Application of	:	
HAUMONT, Serge	:	
Application No. 10/312,814	:	DECISION ON PETITION
Filed: April 2, 2003	:	TO WITHDRAW
Attorney Docket No. **060282.00476**	:	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 12, 2007.

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

A review of the file record indicates that the power of attorney to **FOLEY & LARDNER, LLP** has been revoked and re-appointed by the assignee of the patent application on July 17, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

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

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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

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OFFICE OF PETITIONS

In re Application of
Pystyen et al.
Application No. 10/312,817
Filed: June 28, 2001
For: COUMARIN DERIVATIVES WITH COMT INHIBITING ACTIVITY
Attorney Docket No: 06267.0100
Pub. No.: US 2003/0186975 A1
Pub. Date: October 2, 2003

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

The request is granted.

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

The application is being forwarded to the Office of Pre-Grant Publication (PG-PUB) in Crystal Park 3-905 for further processing.

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

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

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

In re Application of	:	
ASARI et al.	:	
Application No.: 10/312,879	:	
PCT No.: PCT/JP01/05918	:	DECISION ON PETITION
Int. Filing Date: 06 July 2001	:	
Priority Date: 07 July 2000	:	
Attorney Docket No.: 232560US0PCT	:	
For: HYALURONIC ACID OLIGOSACCHARIDE	:	
FRACTIONS AND DRUGS CONTAINING THE SAME	:	

This is a decision on applicants' "RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE" filed 18 August 2003, which has been treated as a petition under 37 CFR 1.182.

BACKGROUND

On 06 July 2001, applicant filed international application PCT/JP01/05918, which claimed a priority date of 07 July 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 17 January 2002. A Demand for international preliminary examination, in which the United States was elected, was filed on 01 February 2002, 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 07 January 2003.

On 02 January 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee, the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date, and an English language translation of the international application.

On 28 April 2003, the USPTO 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) was required.

On 30 June 2003, applicants submitted a "RESPONSE TO NOTICE OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371", which was accompanied by a declaration of inventors.

On 17 July 2003, the USPTO issued a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating, *inter alia*, that the declaration of inventors submitted with the 15 June 2004 submission was not in compliance with 37 CFR 1.497(a)-(b) because the third

inventor's last name is different on the declaration than on the International Application.

On 18 August 2003, applicants submitted the instant "RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE", which has been treated as a petition under 37 CFR 1.182.

DISCUSSION

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

With regard to item (1), petitioner urges that the required fee was paid at the time of filing the application. However, the fee that was paid at the time of filing the application was the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date. The fee required here is the petition fee under 37 CFR 1.182. Accordingly, the petition fee of $130 has been charged to Deposit Account 15-0030.

With regard to item (2), the "DECLARATION OF Tomomi SHIBATA" is an affidavit of Tomomi Shibata signed with both names and setting forth the procedure whereby the change of name was effected. The affidavit by Tomomi Shibata submitted 18 August 2003 is accepted.

The declaration of inventors submitted 30 June 2003 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

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

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

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

Daniel Stemmer
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Office of Patent Cooperation Treaty
Legal Administration
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26 SEP 2003

Mark D. Wieczorek
PO Box 70072
San Diego, CA 92167

In re Application of	:	
Manes et al.	:	
US Application No.: 10/312,896	:	
PCT Application No.: PCT/EP01/06910	:	**DECISION ON**
International Filing Date: 19 June 2001	:	**PETITION FOR REVIVAL**
Priority Date: 30 June 2000	:	**UNDER 37 CFR 1.137(b)**
Attorney's Docket No.: 00139/003001	:	
For: MATERIAL AND METHOD AND	:	
DEVICE FOR PRODUCING THE SAME	:	

The petition to revive under 37 CFR 1.137(b), filed on 25 June 2003 in the above-captioned application, is hereby **GRANTED** as follows.

On 19 June 2001, Applicants filed international application PCT/EP01/06910, which claimed priority of an earlier application filed on 30 June 2000. A copy of the international application, in German, was communicated from the International Bureau to the USPTO on 3 January 2002. A demand for international preliminary examination, in which the United States was elected, was filed on 30 January 2002, the end of the 19-month period from the 30 June 2000 priority date. The period for paying the basic national fee is thus 30 months and ended at midnight on 30 December 2002.

On 30 December 2002, Applicants filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371, along with an English translation of the international application and an unexecuted declaration, but not the basic national fee or any authorization to charge the fee to a deposit account. Given that the basic national fee was not paid on or before 30 December 2002, the international application became abandoned as to the United States on 31 December 2002.

The instant petition encloses, *inter alia*:

(1) A $463 check wherein $450 was applied toward the $450 basic national fee (small entity) required by 35 U.S.C. 371(c)(1) and 37 CFR 1.492(a)(5);

(2) The $650 petition fee (small entity);

10/03/2003 MKAYPAGH 00000155 10312896
01 FC:2613 450.00 OP

10/03/2003 MKAYPAGH 00000156 10312896
01 FC:1206 13.00 OP

Adjustment date: 03/08/2004 KMCLEAN1
10/03/2003 MKAYPAGH 00000135 10312896
01 FC:1206 -13.00 OP

(3) A statement to the effect that the entire delay in filing the basic national fee from its due date until the filing of the instant petition under 37 CFR 1.137(b) was unintentional.

Moreover, a terminal disclaimer is not applicable in the instant case.

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.

Applicants' claim for priority is acknowledged. The application has an international filing date of 19 June 2001 under 35 U.S.C. 363.

The $13 overpayment will be refunded.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing, including mailing of a Notification of Missing Requirements under 35 U.S.C. 371, requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b).

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PCT/JP01/05755

03.07.01

日本国特許庁
JAPAN PATENT OFFICE

REC'D 13 JUL 2001
WIPO PCT

別紙添付の書類に記載されている事項は下記の出願書類に記載されている事項と同一であることを証明する。

This is to certify that the annexed is a true copy of the following application as filed with this Office

出願年月日
Date of Application: ２０００年　７月　４日

出願番号
Application Number: 特願２０００－２０１７３０

出願人
Applicant(s): 東京エレクトロン株式会社

PRIORITY DOCUMENT
SUBMITTED OR TRANSMITTED IN COMPLIANCE WITH RULE 17.1 (a) OR (b)

２００１年　５月２５日

特許庁長官
Commissioner,
Japan Patent Office

及川耕造

出証番号　出証特２００１－３０４５０４４

【書類名】　特許願
【整理番号】　JP002065
【あて先】　特許庁長官　近藤　隆彦　殿
【国際特許分類】　H01L 21/00
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【代理人】
　【識別番号】　100096910
　【弁理士】
　【氏名又は名称】　小原　肇
　【電話番号】　045(476)5454
【手数料の表示】
　【予納台帳番号】　064828
　【納付金額】　21,000円
【提出物件の目録】
　【物件名】　明細書　1
　【物件名】　図面　1
　【物件名】　要約書　1
【プルーフの要否】　要

【書類名】　明細書

【発明の名称】　消耗品の消耗度予測方法及び堆積膜厚の予測方法

【特許請求の範囲】

【請求項１】　高周波電力を印加してプロセスガスから生成したプラズマを用いて被処理体に所定の処理を施す処理装置に用いられる消耗品の消耗度を予測する方法であって、上記消耗品の消耗度に応じて変化する複数の電気的データを経時的に測定し、これらの測定データを用いて多変量解析を行って上記消耗度を予測することを特徴とする消耗品の消耗度予測方法。

【請求項２】　高周波電力を印加してプロセスガスから生成したプラズマを用いて被処理体に所定の処理を施す処理装置に用いられる消耗品の消耗度を予測する方法であって、上記消耗品の消耗度に応じて変化する複数の電気的データを経時的に測定し、これらの測定データを用いて重回帰分析を行って上記消耗度を予測することを特徴とする消耗品の消耗度予測方法。

【請求項３】　電気的データとして上記高周波電力の供給ラインのマッチング回路と処理室との間の基本波及びその整数倍波の電圧及び電流を用いることを特徴とする請求項１または請求項２に記載の消耗品の消耗度予測方法。

【請求項４】　上記消耗度が上記消耗品の厚さを基準にすることを特徴とする請求項１～請求項３のいずれか１項に記載の消耗品の消耗度予測方法。

【請求項５】　高周波電力を印加してプロセスガスから生成したプラズマを用いて被処理体に所定の処理を施す処理装置の内部で形成される堆積膜厚を予測する方法であって、上記堆積膜厚に応じて変化する複数の電気的データを経時的に測定し、これらの測定データを用いて多変量解析を行って上記堆積膜厚を予測することを特徴とする堆積膜厚の予測方法。

【請求項６】　高周波電力を印加してプロセスガスから生成したプラズマを用いて被処理体に所定の処理を施す処理装置の内部で形成される堆積膜厚を予測する方法であって、上記堆積膜厚に応じて変化する複数の電気的データを経時的に測定し、これらの測定データを用いて重回帰分析を行って上記堆積膜厚を予測することを特徴とする堆積膜厚の予測方法。

【請求項７】　電気的データとして上記高周波電力の供給ラインのマッチング回

路と処理室との間の基本波及びその整数倍波の電圧及び電流を用いることを特徴とする請求項５または請求項６に記載の堆積膜厚の予測方法。

【発明の詳細な説明】

【０００１】

【産業上の利用分野】

本発明は、消耗品の消耗度予測方法及び堆積膜厚の予測方法に関し、更に詳しくは、プラズマ処理装置に用いられている消耗品の消耗度を予測する方法及びプラズマ処理装置内でプロセスガスに起因して形成された堆積膜厚を予測する方法に関する。

【０００２】

【従来の技術】

プラズマ処理装置は通常エッチング処理や成膜処理等に用いられる。この種のプラズマ処理装置は、例えば、処理室内に互いに平行に配設された上部電極と下部電極を備え、下部電極に高周波電力を印加すると共に処理室内にプロセスガスを導入し、上部電極と下部電極間の放電によりプロセスガスのプラズマを発生させ、半導体ウエハ等の被処理体に所定のプラズマ処理を施すようにしている。ところが、プラズマ処理時にはプロセスガスから副生成物を生じ、これらの副生成物が装置内の壁面や上下の両電極等に堆積して堆積膜を形成する。堆積膜を放置するとパーティクルの原因になるため、時期を見計らって装置内をクリーニングし、堆積膜を除去している。また、プラズマ処理装置内にはフォーカスリング等の消耗品が用いられているが、これらの消耗品はプラズマの攻撃を受けて消耗される。そのため、クリーニング等のメンテナンスに合わせて消耗品を交換している。

【０００３】

【発明が解決しようとする課題】

しかしながら、従来はプラズマ処理装置の処理室を開けることなく堆積膜の膜厚を測定する方法がなかったため、堆積膜を除去するタイミング、即ちクリーニングのタイミングはオペレータの経験と勘に頼らざるを得なかった。しかもプロセスガスの種類に応じて堆積膜の種類の多岐に渡り、それぞれの堆積膜の成長速度

が異なりクリーニング時期を適切に予測することは殆ど不可能であった。

【０００４】

また、消耗品も堆積膜の成長速度と同様に処理内容によって消耗度が異なり、しかも処理室を開けることなく消耗品の消耗度を予測する方法がなかったため、メンテナンスに合わせて消耗品を交換せざるを得なかった。

【０００５】

本発明は、上記課題を解決するためになされたもので、処理装置を開けることなく消耗品の交換時期を予測することができる消耗品の消耗度予測方法と、処理装置を開けることなく堆積膜の膜厚を予測することができる堆積膜厚の予測方法とを提供することを目的としている。

【０００６】

【課題を解決するための手段】

本発明の請求項１に記載の消耗品の消耗度予測方法は、高周波電力を印加してプロセスガスから生成したプラズマを用いて被処理体に所定の処理を施す処理装置に用いられる消耗品の消耗度を予測する方法であって、上記消耗品の消耗度に応じて変化する複数の電気的データを経時的に測定し、これらの測定データを用いて多変量解析を行って上記消耗度を予測することを特徴とするものである。

【０００７】

また、本発明の請求項２に記載の消耗品の消耗度予測方法は、高周波電力を印加してプロセスガスから生成したプラズマを用いて被処理体に所定の処理を施す処理装置に用いられる消耗品の消耗度を予測する方法であって、上記消耗品の消耗度に応じて変化する複数の電気的データを経時的に測定し、これらの測定データを用いて重回帰分析を行って上記消耗度を予測することを特徴とするものである。

【０００８】

また、本発明の請求項３に記載の消耗品の消耗度予測方法は、請求項１または請求項２に記載の発明において、電気的データとして上記高周波電力の供給ラインのマッチング回路と処理室との間の基本波及びその整数倍波の電圧及び電流を用いることを特徴とするものである。

【０００９】

また、本発明の請求項４に記載の消耗品の消耗度予測方法は、請求項１～請求項３のいずれか１項に記載の発明において、上記消耗度が上記消耗品の厚さを基準にすることを特徴とするものである。

【００１０】

また、本発明の請求項５に記載の堆積膜厚の予測方法は、高周波電力を印加してプロセスガスから生成したプラズマを用いて被処理体に所定の処理を施す処理装置の内部で形成される堆積膜厚を予測する方法であって、上記堆積膜厚に応じて変化する複数の電気的データを経時的に測定し、これらの測定データを用いて多変量解析を行って上記堆積膜厚を予測することを特徴とするものである。

【００１１】

また、本発明の請求項６に記載の堆積膜厚の予測方法は、高周波電力を印加してプロセスガスから生成したプラズマを用いて被処理体に所定の処理を施す処理装置の内部で形成される堆積膜厚を予測する方法であって、上記堆積膜厚に応じて変化する複数の電気的データを経時的に測定し、これらの測定データを用いて重回帰分析を行って上記堆積膜厚を予測することを特徴とするものである。

【００１２】

また、本発明の請求項７に記載の堆積膜厚の予測方法は、請求項５または請求項６に記載の発明において、電気的データとして上記高周波電力の供給ラインのマッチング回路と処理室との間の基本波及びその整数倍波の電圧及び電流を用いることを特徴とするものである。

【００１３】

【発明の実施の形態】

以下、図１～図３に示す実施形態に基づいて本発明を説明する。

まず、本発明の消耗品の消耗度予測方法及び堆積膜厚の予測方法が適用されたプラズマ処理装置の一例について図１を参照しながら説明する。本実施形態に用いられるプラズマ処理装置１０は、例えば図１に示すように、アルミニウム等の導電性材料からなる処理室１１と、この処理室１１内の底面に配設され且つ被処理体としてのウエハＷを載置する載置台を兼ねた下部電極１２と、この下部電極１

２の上方に所定の間隔を隔てて配設され且つプロセスガスの供給部を兼ねた中空状の接地された上部電極１３と、回転磁場を付与する磁場形成手段１４とを備え、制御装置１５の制御下で処理室１１の上下両電極間で発生する電界に磁場形成手段１４による回転磁界Ｂが作用し、高密度プラズマでウエハＷに対して均一なプラズマ処理を行う。

【００１４】

上記処理室１１の上面には上部電極１３に連通させたガス供給管１６が接続され、ガス供給管１６及び上部電極１３を介してガス供給源（図示せず）から処理室１１内へプロセスガスを供給する。処理室１１の側面には図示しない真空排気装置に連結されたガス排出管１７が接続され、真空排気装置及びガス排出管１７を介して処理室１１内を減圧して所定の真空度に保持する。下部電極１２には電圧・電流測定器１８及びマッチング回路１９を介して高周波電源２０が接続され、高周波電源２０から下部電極１２へ高周波電力を印加し両電極１２、１３間でプロセスガスのプラズマを発生させて下部電極１２上の半導体ウエハＷ表面に所定のプラズマ処理を施している。また、下部電極１２の周縁部にはフォーカスリング２１が配設され、フォーカスリング２１によってプラズマをウエハに収束してプラズマ処理を効率的に行うようにしている。

【００１５】

ところで、本実施形態では１３．５６ＭＨｚの高周波電力を下部電極１２に印加しているが、下部電極１２には１３．５６ＭＨｚの高周波電力の他に、これを基本波とする整数倍波（例えば２７．１２ＭＨｚ、４０．６８ＭＨｚ、５４．２４ＭＨｚ）が形成されて印加される。ところが、これらの高周波電力の供給ラインのマッチング回路１９と処理室１１との間の電圧及び電流は処理室１１内の環境変化、例えば堆積膜の形成、成長や消耗品の消耗度に応じて変化することが判っている。そこで、本実施形態ではこれらの電圧、電流の変化を利用して消耗品例えばフォーカスリング２１の消耗度（例えば、厚さの減少）を予測すると共に、堆積膜の膜厚を予測するようにしている。

【００１６】

即ち、下部電極１２とマッチング回路１９の間に介在する電圧・電流測定器１８

を用いて複数の高周波の電圧及び電流を電気的データとして間欠的に測定し、これらの測定値をそれぞれ制御装置１５内に逐次取り込むようにしている。この制御装置１５には多変量解析プログラムとして例えば重回帰分析用のプログラムが格納され、このプログラムを介して重回帰分析を行って上記の予測を行うようにしている。消耗品例えばフォーカスリング２１の厚さＦと上記複数の高周波の電圧の測定値Ｖ（f_n）及び上記電流の測定値Ｉ（f_n）を関連づけ、フォーカスリング２１の厚さを予測するための重回帰式（①式で表される一次多項式）を作る。f_nはｎ倍波を表す。そして、Ｖ（f_n）及びＩ（f_n）を間欠的に測定し、常法に従ってこれらの測定値を用いて①式の各係数及び定数項を決定する。

$$F = a_0 + a_1 V(f_1) + a_2 V(f_2) + \cdots + a_n V(f_n) + b_1 I(f_1) + b_2 I(f_2) + \cdots + b_n I(f_n) \quad \cdots ①$$

【００１７】

本実施形態では実測値で２．４ｍｍと３．３ｍｍのフォーカスリングを用いて重回帰分析を行った。即ち、２種類のフォーカスリングを装着した処理装置でそれぞれ複数枚のウエハに対して下記の条件でエッチング処理を行い、電圧・電流測定器１８を用いて４倍波まで４種類の高周波数電力の電圧及び電流を０．２秒間隔で測定し、ウエハ毎の平均値を求めて各周波数電力の電圧の測定値Ｖ（f_n）及び電流の測定値Ｉ（f_n）を得た。次いで、これらの測定値Ｖ（f_n）、Ｉ（f_n）を①式に代入して予め厚さが分かっているフォーカスリングの予測値から重回帰分析の手法を用いて各係数及び定数項を求めた。各係数及び定数項を決定するために、上記各測定値の平均値、分散共分散等の重回帰分析に必要な統計値を求めた後、フォーカスリング２１の実測値と予測値（①式による計算値）Ｆの差の２乗の和が最小になる係数及び定数項を求めた。全ての係数及び定数項を決定した後、厚さが未知のフォーカスリング使用時に測定した電圧及び電流の測定値Ｖ（f_n）、Ｉ（f_n）を①式に代入すれば、それぞれのフォーカスリング２１に対する予測値Ｆが具体的な数値として得られる。

【００１８】

処理条件

処理装置：マグネトロンＲＩＥ型処理装置

ウエハ：２００ｍｍ

被エッチング膜：シリコン酸化膜

下地層：シリコン窒化膜

処理内容：ＳＡＣ

下部電極の電源高周波数及び電力：１３．５６ＭＨｚ、１７００Ｗ

電極間ギャップ：２７ｍｍ

処理圧力：５３ｍTorr

プロセスガス：C_4F_8＝１６sccm、ＣＯ＝３００sccm、Ａｒ＝４００sccm

バックサイドガス：Ｈｅ＝７Torr（電極中央部）、４０Torr（電極エッジ部）

静電チャック直流電圧：１．５ＫＶ

処理温度：上部電極＝６０℃、側壁＝６０℃、下部電極＝２０℃

【００１９】

図２には２．４ｍｍ、３．３ｍｍのフォーカスリングの他に、２．６ｍｍ、２．８ｍｍ及び３．１ｍｍのフォーカスリングに関する実測値と予測値が図示してある。これらの場合の予測値は２．４ｍｍ及び３．３ｍｍのフォーカスリングの重回帰分析によって得られた①式の重回帰式に各フォーカスリングでのＶ（f_n）及びＩ（f_n）の実測値を代入して得られた予測値である。図２からも明らかなように重回帰分析に使用されなかったフォーカスリングの実測値及び予測値も重回帰分析を得るために使用したデータと同様に右上がりに推移しており、①式がフォーカスリング厚の予測に十分役立つことが判る。

【００２０】

更に、本実施形態ではフォーカスリングの厚さＦを予測するための重回帰式が役立つか否かを判断するために重回帰分析用の分散分析表を作成した。この結果、重回帰式である①式がフォーカスリング２１の消耗度を予測するのに有効であることが判った。また、決定係数、重相関係数等の重回帰分析の信頼性を観る各種の係数を求めた結果、①式を用いたフォーカスリングの予測が信頼性の高い方法であることが判った。

【００２１】

以上説明したように本実施形態によれば、フォーカスリング２１の厚さに応じて

変化する高周波電源２０の基本波及び整数倍波の電圧及び電流の実測値Ｖ（f_n）、Ｉ（f_n）を電気的データとして経時的に測定し、これらの測定データを用いて重回帰分析を行ってフォーカスリング２１の厚さを予測するようにしたため、処理室１１を開けることなくフォーカスリング２１の厚さを簡単に予測してその消耗度を容易に知ることができ、フォーカスリング２１の交換時期を適切に判断することができ、ひいてはフォーカスリング２１の寿命を知ることによりメンテナンスに合わせて必ずしもフォーカスリング２１を交換しなくても済み、フォーカスリング２１を最大限有効に使用することができる。

【００２２】

次に、本実施形態の堆積膜厚の予測方法について図３を参照しながら説明する。上記実施形態で測定した電圧の測定値Ｖ（f_n）及び電流の測定値Ｉ（f_n）を用いて処理室１１内の内壁面の堆積膜厚を予測するための重回帰式として②式を作った。②式においてＳは堆積膜厚の予測値を表す。

$$S = a_0 + a_1 V(f_1) + a_2 V(f_2) + \cdots + a_n V(f_n) + b_1 I(f_1) + b_2 I(f_2) + \cdots + b_n I(f_n) \quad \cdots ②$$

【００２３】

具体的には、処理室１１の内壁面の堆積膜厚の実測値が０ｍｍ、０．３ｍｍの場合について４倍波（ｎ＝４）までの電圧及び電流の測定値から②式の係数及び定数項を上記実施形態と同様にして求めた。そして、これらの係数及び定数項が決定した②式を用い、堆積膜厚の予測値Ｓを求めた。この時の実測値と予測値Ｓの関係を示したものが図３である。

【００２４】

図３には０ｍｍ、０．３ｍｍの堆積膜厚の他に、０．１５ｍｍの堆積膜厚に関する実測値と予測値が図示してある。これらの予測値は０ｍｍ及び０．３ｍｍの堆積膜厚の重回帰分析によって得られた②式の重回帰式に各堆積膜厚におけるＶ（f_n）及びＩ（f_n）の実測値を代入して得られた予測値である。図３からも明らかなように重回帰分析に使用されなかった堆積膜厚の実測値及び予測値も重回帰分析を得るために使用したデータと同様にほぼ一次直線上にプロットされ②式が堆積膜厚の予測に十分役立つことが判る。

【００２５】

以上説明したように本実施形態によれば、堆積膜厚に応じて変化する高周波電源２０の基本波及び整数倍波の電圧及び電流の実測値Ｖ（f_n）、Ｉ（f_n）を電気的データとして経時的に測定し、これらの測定データを用いて重回帰分析を行って堆積膜厚を予測するようにしたため、処理室１１を開けることなく堆積膜厚を簡単に予測することができ、処理室１１内のクリーニング時期を適切に判断することができる。

【００２６】

尚、上記実施形態では、重回帰分析を用いて行うウエハのプラズマ処理装置のフォーカスリングの厚さ及び堆積膜厚を予測する場合について説明したが、その他の多変量解析の手法を用いてフォーカスリングの厚さ及び堆積膜厚を予測することもできる。また、上記実施形態ではフォーカスリングの厚さ及び堆積膜厚を例に挙げて説明したが、これら以外の処理装置内のその他の消耗品（例えば上部電極、シールドリング、アウターフォーカスリング等）にも本発明を適用することができる。

【００２７】

【発明の効果】

本発明の請求項１～請求項４に記載の発明によれば、処理装置を開けることなく消耗品の交換時期を予測することができ、ひいては消耗品の寿命を予測してその交換時期を適切に判断することができる消耗品の消耗度予測方法を提供することができる。

【００２８】

また、本発明の請求項５～請求項７に記載の発明によれば、処理装置を開けることなく堆積膜の膜厚を予測することができ、ひいてはクリーニング時期を適切に判断することができる堆積膜厚の予測方法を提供することができる。

【図面の簡単な説明】

【図１】

本発明の消耗品の消耗度予測方法及び堆積膜厚の予測方法を適用するプラズマ処理装置の一例を示す構成図である。

【図２】

本発明の消耗品の消耗度予測方法の一実施形態によって得られたフォーカスリングの実測値と予測値の関係を示すグラフである。

【図３】

本発明の堆積膜厚の予測方法の一実施形態によって得られた堆積膜厚の実測値と予測値の関係を示すグラフである。

【符号の説明】

１０　プラズマ処理装置

１１　処理室

１２　上部電極

１３　下部電極

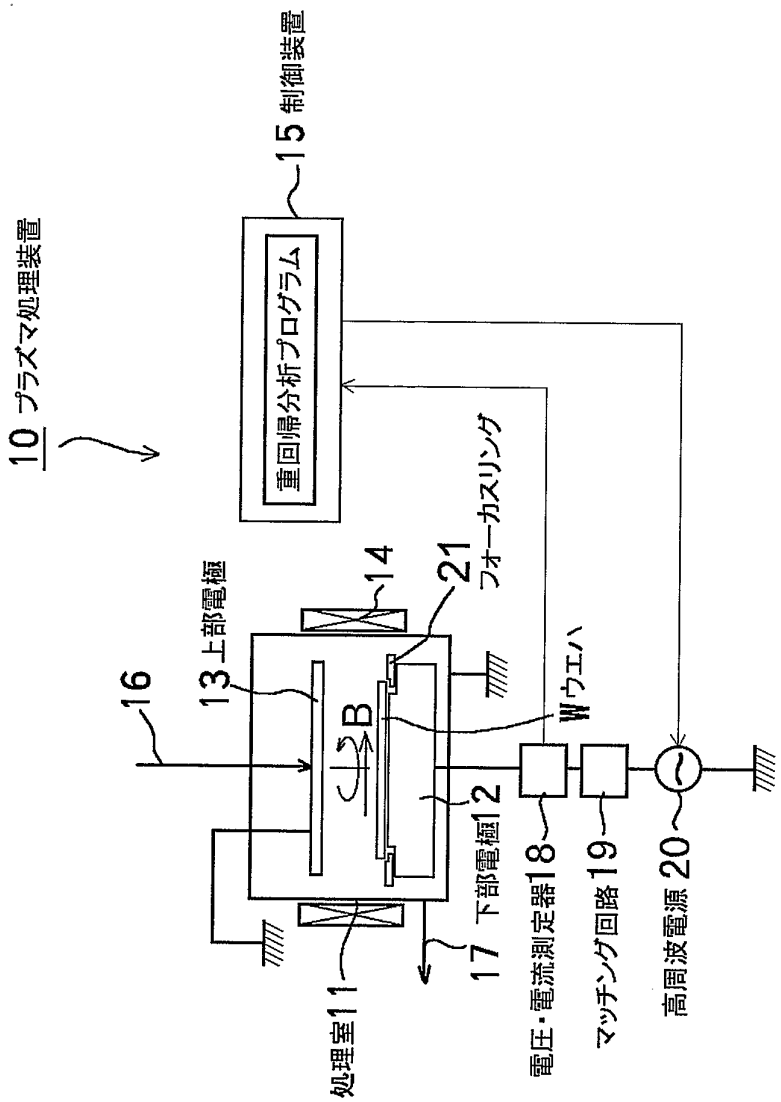
１７　電圧・電流測定器

１９　高周波電源

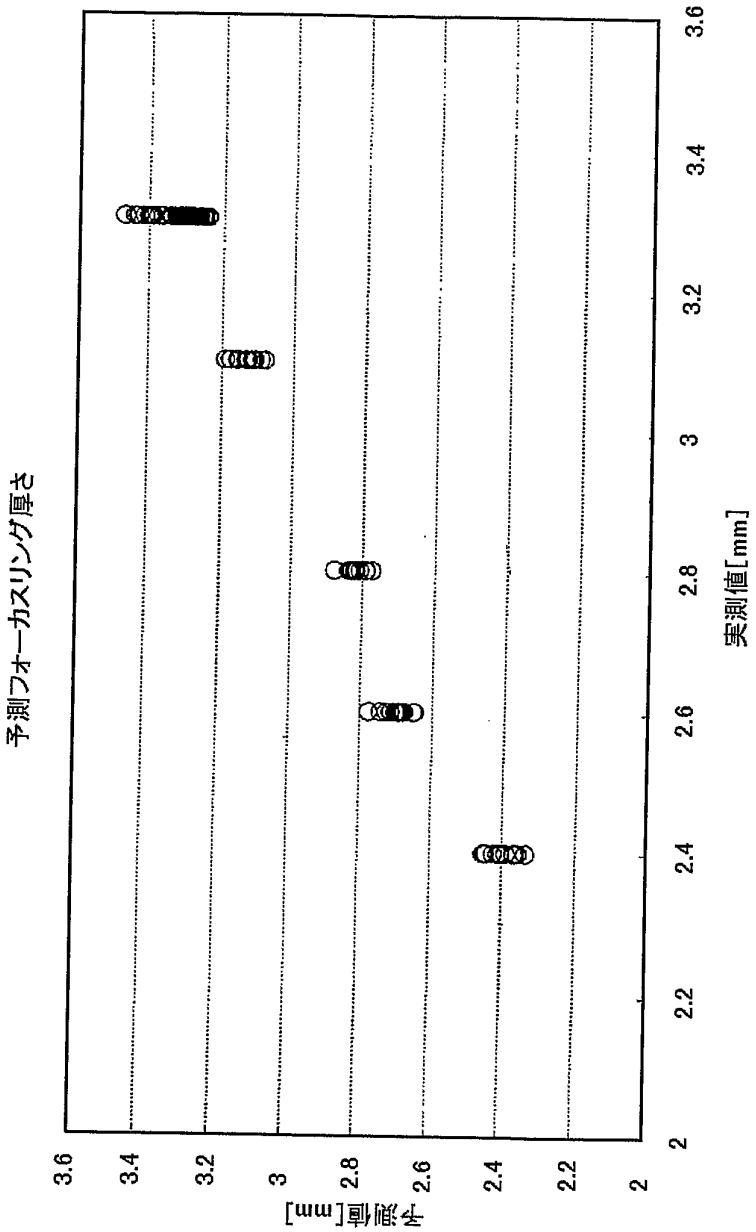
Ｗ　ウエハ（被処理体）

【書類名】図面

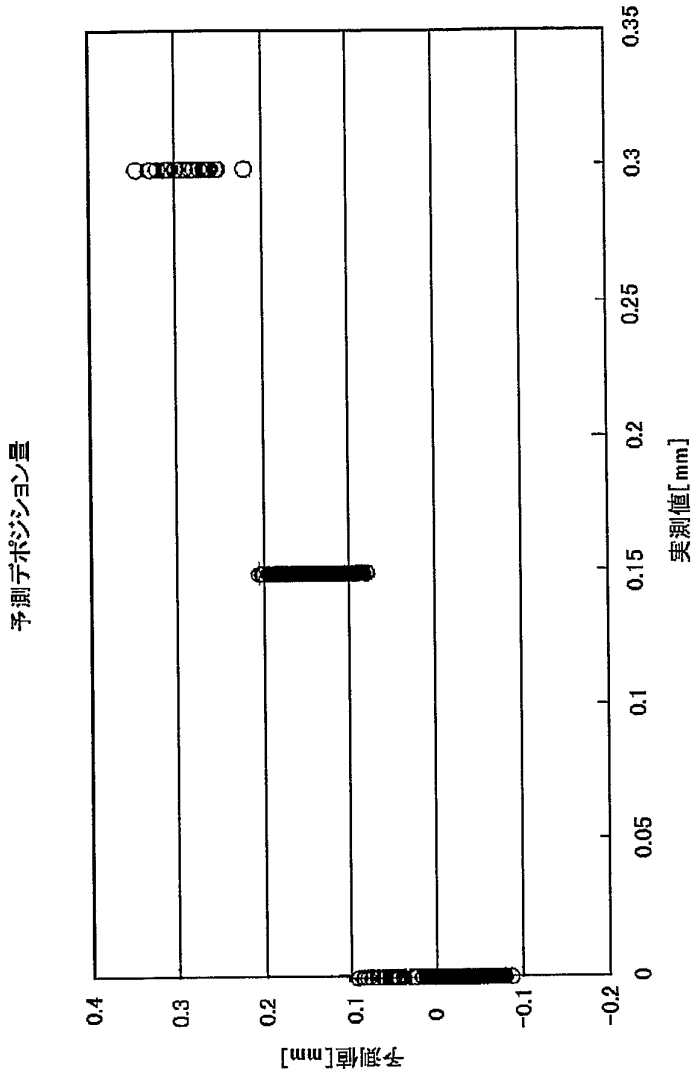
【図１】


10 プラズマ処理装置
15 制御装置
重回帰分析プログラム
16
13 上部電極
14
21 フォーカスリング
B
W ウエハ
処理室11
17
12 下部電極
電圧・電流測定器18
マッチング回路19
高周波電源 20

【図２】


予測フォーカスリング厚さ
予測値[mm]
3.6
3.4
3.2
3
2.8
2.6
2.4
2.2
2
2
2.2
2.4
2.6
2.8
3
3.2
3.4
3.6
実測値[mm]

【図３】


予測デポジション量
0.4
0.3
0.2
0.1
0
-0.1
-0.2
予測値[mm]
0
0.05
0.1
0.15
0.2
0.25
0.3
0.35
実測値[mm]

【書類名】　要約書

【要約】

【課題】　従来は処理室を開けることなく消耗品の消耗度、及び堆積膜厚を予測する方法がなかった。

【解決手段】　本発明の消耗品の消耗度予測方法は、高周波電力を印加してプロセスガスから生成したプラズマを用いてウエハＷに所定の処理を施すプラズマ処理装置１０に用いられる消耗品の消耗度、及び堆積膜厚を予測する方法であって、フォーカスリング２０の厚さ、及び堆積膜厚に応じて変化する高周波電源１９の基本波及び整数倍波の電圧及び電流をそれぞれ経時的に測定し、これらの測定データを用いて重回帰分析を行ってフォーカスリング２０の厚さ、及び堆積膜厚を予測することを特徴とするものである。

【選択図】　図２

認定・付加情報

特許出願の番号	特願２０００－２０１７３０
受付番号	５００００８３５２２４
書類名	特許願
担当官	第五担当上席　　００９４
作成日	平成１２年　８月　９日

＜認定情報・付加情報＞

【提出日】　平成12年 7月 4日

次頁無

出　願　人　履　歴　情　報

識別番号　　〔０００２１９９６７〕

１．変更年月日　　１９９４年　９月　５日
　［変更理由］　住所変更
　　住　所　　東京都港区赤坂５丁目３番６号
　　氏　名　　東京エレクトロン株式会社

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1-06-09

TO SPE OF : ART UNIT 1792

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/312909 Patent No.: 7341644

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Certificates of Correction Branch
703-308-9390 ext. 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: Approved. Atthached is the JP document, scanned for the record.

/Parviz Hassanzadeh/ — **SPE**

1792 — **Art Unit**

13 JAN 2004

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Jennifer A. Albert
Intellectual Property Department
Hunton & Williams
1900 K Street NW, Suite 1200
Washington, DC 20006-1109

In re Application of KIPPENHAHN, Rolf et al. Application No.: 10/312,910 PCT No.: PCT/EP01/07456 Int. Filing Date: 29 June 2001 Priority Date: 03 July 2000 Docket No.: 60291.000016 For: MULTILAYERED PACKAGING FOR GREASY PRODUCTS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicant's "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR §1.137(b)," filed in the above-captioned application on 20 November 2003 is **GRANTED**. Applicant's status inquiry and postcard indicate that an earlier copy of this petition was submitted on 20 May 2003. Though the petition is not in the file, the postcard is adequate evidence of its earlier receipt by the Office.

Applicant states "the entire delay in filing the basic national fee from the due date for the required submission 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
Facsimile: (703) 308-6459

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JAMES C. WRAY
SUITE 300
1493 CHAIN BRIDGE ROAD
McCLEAN, VA 22010

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MAR 30 2005

OFFICE OF PETITIONS

In re Application of:	:	
Gorokhov Victor Dmitrievich	:	
Application No. 10/312,914	:	DECISION ON
Filed: February 24, 2003	:	PETITION
Title of Invention:	:	
COAXIAL JET INJECTOR ELEMENT	:	

This is a decision on the petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b), filed February 4, 2005, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the nonfinal Office action, mailed June 1, 2004. The Notice set a shortened statutory period for reply of three (3) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned September 5, 2004. A Notice of Abandonment was mailed December 28, 2004.

With the instant petition, Applicant has filed an Amendment in response to the nonfinal Office action.

Having found that all of the requirements for a grantable petition under 37 CFR 1.137(b) have been met, **this petition is hereby granted**.

This application is being returned to Technology Center 3746 for processing of the Amendment, filed February 4, 2005, in due course.

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

Derek L. Woods
Attorney/Advisor
Office of Petitions

10 JUL 2003

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Commissioner for Patents
United States Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450
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Gregory M. Hill
Henkel Corporation
Patent Law Dept
2500 Renaissance Blvd.
Suite 200
Gulph Mills, PA 19406

In re Application of	:	
Becker et al.	:	
US Application No.: 10/312,916	:	
PCT Application No.: PCT/EP01/07206	:	**DECISION ON**
International Filing Date: 21 June 2001	:	**PETITION FOR REVIVAL**
Priority Date: 30 June 2000	:	**UNDER 37 CFR 1.137(b)**
Attorney's Docket No.: H 4728 PCT/US	:	
For: MELT-ADHESIVES FOR SEALING OFF	:	
ROCKS OR BUILDING MATERIALS	:	

This decision is in response to the petition under 37 CFR 1.137(b), filed on 5 June 2003.

On 21 June 2001, Applicants filed international application PCT/EP01/07206, which claimed priority of an earlier application filed on 30 June 2000. Therefore, the thirty-month period for entering the national stage ended on 30 December 2002.

On 30 December 2002, Applicants filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371, along with, *inter alia*, a "Declaration for Utility or Design Application" ("Declaration") but not the basic national fee required by 37 CFR 1.495(b). Accordingly, the international application became abandoned as to the United States on 31 December 2002.

The instant petition is accompanied by:

(1) An authorization to charge the $900 basic national fee and the $1,300 petition fee to Deposit Account No. 03-0284;

(2) A statement to the effect that the entire delay in filing the basic national fee from its due date until the filing of the instant petition under 37 CFR 1.137(b) was unintentional.

Moreover, a terminal disclaimer is not applicable in the instant case. The petition is thus **GRANTED**.

07/15/2003 SNAJARRO 00000003 011250 10312916

02 FC:1454 1300.00 DA

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing, including mailing of a Notification of Missing Requirements under 35 U.S.C. 371, requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b), and the surcharge under 37 CFR 1.492(e).

Boris Milef
PCT Legal Examiner
PCT Legal Office

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

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JUL 11 2008

BRACHER RAWLINS LLP
Fox Court
14 Gray's Inn Road
London WC1X 8HN

Enclosure: February 13, 2008 letter, requesting registration of a "Freezing Injunction"

For: U.S. Patent Nos. 6,818,033; 6,849,094; 6,936,095; 7,207,197 and 7,300,482; and U.S. Patent Application Publication Nos. 2003/0159412; 2004/0103785; 2004/0083773; 2004/0244438; 2005/0092032; 2005/0194295 and 2006/0162299	**DECISION DISMISSING REQUEST**

This is a decision on the letter, dated February 13, 2008, requesting registration of a "Freezing Injunction," issued In The High Court of Justice, Chancery Division, against (a) U.S. Patent Nos. 6,818,033, 6,849,094, 6,936,095, 7,207,197, 7,300,482, any other U.S. patents for which John Herbert North is the applicant, and (b) U.S. Patent Application Publication Nos. 2003/0159412, 2004/0103785, 2004/0083773, 2004/0244438, 2005/0092032, 2005/0194295 and 2006/0162299. The letter is taken as written requests for both (a) a citation of information under 35 U.S.C. § 301 in multiple patents, and (b) a citation of information under 35 U.S.C. § 122(b) in multiple published patent applications.

This request is before the Office of Patent Legal Administration for decision.

The present request for citation of the Freezing Injunction in the above-captioned U.S. patents and patent application publications has been fully considered. The request is **dismissed**, for the reasons set forth below.

RELEVANT STATUTES, REGULATIONS, AND EXAMINING PROCEDURE

37 CFR 1.4(c) provides:

> "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."

35 U.S.C. § 122(b) provides:

> (c) PROTEST AND PRE-ISSUANCE OPPOSITION.— The Director shall establish appropriate procedures to ensure that no protest or other form of pre-issuance opposition to the grant of a patent on an application may be initiated after publication of the application without the express written consent of the applicant.

The Manual of Patent Examining Procedure (MPEP) § 1134 provides (in part):

> Any submission filed by a third party (e.g., a protest) in an application published under 35 U.S.C. 122(b) (without the express written consent of the applicant) that does not comply with the requirements of 37 CFR 1.99 will be disregarded and not entered into the application file.

35 U.S.C. § 301 provides:

> Any person at any time may cite to the Office in writing prior art consisting of patents or printed publications which that person believes to have a bearing on the patentability of any claim of a particular patent. If the person explains in writing the pertinency and manner of applying such prior art to at least one claim of the patent, the citation of such prior art and the explanation thereof will become a part of the official file of the patent. At the written request of the person citing the prior art, his or her identity will be excluded from the patent file and kept confidential.

The Manual of Patent Examining Procedure (MPEP) § 2205 provides (in part):

> The prior art which may be submitted under 35 U.S.C. 301 is limited to "written prior art consisting of patents or printed publications."
>
> If the prior art citation contains any issue not directed to patents and printed publications, it should not be entered into the patent file, despite the fact that it may otherwise contain a complete submission of patents and printed publications with an explanation of the pertinency and applicability. Rather, the prior art citation should be returned to the sender as described in MPEP § 2206.

DISCUSSION

The instant written request for citation of the Freezing Injunction is improper, because 37 CFR 1.4(c) provides that "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." In

this instance, a third party has provided written requests for both (a) a citation of information under 35 U.S.C. § 301 in a patent, and (b) a citation of information under 35 U.S.C. § 122(b) in a published patent application. Accordingly, the request is improper, and is dismissed.

It is additionally noted as follows:

1. The request for "any other U.S. patents for which John Herbert North is the applicant" is indefinite and does not identify a specific patent to which the request may be applied. Further, 37 CFR 1.4(b) requires that "a separate copy of every paper to be filed in a patent, patent file, or other proceeding must be furnished for each file to which the paper pertains, even though the contents of the papers filed in two or more files may be identical," and requestor clearly has not provided copies for all the above-captioned patents, published patent applications, and any other patents for which John Herbert North is the applicant.

2. The prior art which may be submitted under 35 U.S.C. § 301 is limited to patents or printed publications. The present information citation (submission) contains an issue not directed to patents and printed publications, as well as comments on the information submitted. Requester has not shown the present information submission to be compliant with 35 U.S.C. § 301 and MPEP 2205.

3. Any submission filed by a third party (e.g., a protest) in an application published under 35 U.S.C. 122(b) (without the express written consent of the applicant) must comply with the requirements of 37 CFR 1.99. Requester has not shown the present information submission to be compliant with 35 U.S.C. § 122(b) and MPEP 1134.

CONCLUSION

Accordingly, the written request under 35 U.S.C. § 301 and 35 U.S.C. § 122(b) for citation of prior art is **dismissed**

The citation (submission) of information will not be entered into any file, and it is returned herewith to the sender.

Any questions concerning this communication should be directed to Nicole D. Dretar, Legal Advisor, at 571-272-7717.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

June 24, 2008

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Commissioner for Patents
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MAR 30 2007

OFFICE OF PETITIONS

CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

RECEIVED
MAR 30 2007
OFFICE OF PETITIONS

CANCELLED

In re Patent No. 7,063,968	:	
Application No. 10/312,932	:	
Filed: December 30, 2002	:	ON PETITION
Issued: June 20, 2006	:	
Attorney Docket No. YPL-0049	:	

This is a decision on the petition filed December 4, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to delete an assignee from the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

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

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BRACHER RAWLINS LLP
Fox Court
14 Gray's Inn Road
London WC1X 8HN

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JUL 11 2008

Enclosure: February 13, 2008 letter, requesting registration of a "Freezing Injunction"

For: U.S. Patent Nos. 6,818,033; 6,849,094; 6,936,095; 7,207,197 and 7,300,482; and U.S. Patent Application Publication Nos. 2003/0159412; 2004/0103785; 2004/0083773; 2004/0244438; 2005/0092032; 2005/0194295 and 2006/0162299	**DECISION DISMISSING REQUEST**

This is a decision on the letter, dated February 13, 2008, requesting registration of a "Freezing Injunction," issued In The High Court of Justice, Chancery Division, against (a) U.S. Patent Nos. 6,818,033, 6,849,094, 6,936,095, 7,207,197, 7,300,482, any other U.S. patents for which John Herbert North is the applicant, and (b) U.S. Patent Application Publication Nos. 2003/0159412, 2004/0103785, 2004/0083773, 2004/0244438, 2005/0092032, 2005/0194295 and 2006/0162299. The letter is taken as written requests for both (a) a citation of information under 35 U.S.C. § 301 in multiple patents, and (b) a citation of information under 35 U.S.C. § 122(b) in multiple published patent applications.

This request is before the Office of Patent Legal Administration for decision.

The present request for citation of the Freezing Injunction in the above-captioned U.S. patents and patent application publications has been fully considered. The request is **dismissed**, for the reasons set forth below.

RELEVANT STATUTES, REGULATIONS, AND EXAMINING PROCEDURE

37 CFR 1.4(c) provides:

> "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."

35 U.S.C. § 122(b) provides:

> (c) PROTEST AND PRE-ISSUANCE OPPOSITION.— The Director shall establish appropriate procedures to ensure that no protest or other form of pre-issuance opposition to the grant of a patent on an application may be initiated after publication of the application without the express written consent of the applicant.

The Manual of Patent Examining Procedure (MPEP) § 1134 provides (in part):

> Any submission filed by a third party (e.g., a protest) in an application published under 35 U.S.C. 122(b) (without the express written consent of the applicant) that does not comply with the requirements of 37 CFR 1.99 will be disregarded and not entered into the application file.

35 U.S.C. § 301 provides:

> Any person at any time may cite to the Office in writing prior art consisting of patents or printed publications which that person believes to have a bearing on the patentability of any claim of a particular patent. If the person explains in writing the pertinency and manner of applying such prior art to at least one claim of the patent, the citation of such prior art and the explanation thereof will become a part of the official file of the patent. At the written request of the person citing the prior art, his or her identity will be excluded from the patent file and kept confidential.

The Manual of Patent Examining Procedure (MPEP) § 2205 provides (in part):

> The prior art which may be submitted under 35 U.S.C. 301 is limited to "written prior art consisting of patents or printed publications."
>
> If the prior art citation contains any issue not directed to patents and printed publications, it should not be entered into the patent file, despite the fact that it may otherwise contain a complete submission of patents and printed publications with an explanation of the pertinency and applicability. Rather, the prior art citation should be returned to the sender as described in MPEP § 2206.

DISCUSSION

The instant written request for citation of the Freezing Injunction is improper, because 37 CFR 1.4(c) provides that "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." In

this instance, a third party has provided written requests for both (a) a citation of information under 35 U.S.C. § 301 in a patent, and (b) a citation of information under 35 U.S.C. § 122(b) in a published patent application. Accordingly, the request is improper, and is dismissed.

It is additionally noted as follows:

1. The request for "any other U.S. patents for which John Herbert North is the applicant" is indefinite and does not identify a specific patent to which the request may be applied. Further, 37 CFR 1.4(b) requires that "a separate copy of every paper to be filed in a patent, patent file, or other proceeding must be furnished for each file to which the paper pertains, even though the contents of the papers filed in two or more files may be identical," and requestor clearly has not provided copies for all the above-captioned patents, published patent applications, and any other patents for which John Herbert North is the applicant.

2. The prior art which may be submitted under 35 U.S.C. § 301 is limited to patents or printed publications. The present information citation (submission) contains an issue not directed to patents and printed publications, as well as comments on the information submitted. Requester has not shown the present information submission to be compliant with 35 U.S.C. § 301 and MPEP 2205.

3. Any submission filed by a third party (e.g., a protest) in an application published under 35 U.S.C. 122(b) (without the express written consent of the applicant) must comply with the requirements of 37 CFR 1.99. Requester has not shown the present information submission to be compliant with 35 U.S.C. § 122(b) and MPEP 1134.

CONCLUSION

Accordingly, the written request under 35 U.S.C. § 301 and 35 U.S.C. § 122(b) for citation of prior art is **dismissed**

The citation (submission) of information will not be entered into any file, and it is returned herewith to the sender.

Any questions concerning this communication should be directed to Nicole D. Dretar, Legal Advisor, at 571-272-7717.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

June 24, 2008

04 FEB 2004

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Robin Asher
CLARK HILL PLC
500 Woodward Avenue
Suite 3500
Detroit, MI 48226-3435

In re Application of INWERSENT, Karsten, et al. U.S. Application No.: 10/312,944 PCT No.: PCT/US01/21027 International Filing Date: 02 July 2001 Priority Date: 30 June 2000 Attorney's Docket No.: 19365-092442 For: AUTOMOTIVE TRIM COMPONENT HAVING AN ELATOMERIC SKIN WITH A FOAM CORE AND METHOD FOR MAKING SAME	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to applicants' 25 September 2003 submission of a "Petition Under 37 CFR 1.47(a)." Deposit Account No. 50-1759 will be charged the required petition fee.

BACKGROUND

On 02 July 2001, applicants filed international application PCT/US01/21027 which claimed a priority date of 30 June 2000 and which designated the United States. A Demand was filed with the International Preliminary Examining Authority electing the United States prior to the expiration of 19 months from the priority date. As a result, the deadline for submission of the basic national fee was thirty months from the priority date, i.e., 30 December 2002.

On 30 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 10 July 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements 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 25 September 2003, applicants filed a response that included declarations executed by two of the three inventors, payment of the required surcharge, the fee for a one month extension of time to respond, and the petition under 37 CFR 1.47(a) considered herein. The petition seeks acceptance of the application without the signature of inventor Christian THARY, whom applicants claim has refused to execute the declaration.

DISCUSSION

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the non-signing inventor; (3) an oath or declaration by the other inventors on behalf of themselves and the non-signing inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

Applicants here have authorized a charge to Deposit Account No. 50-1759 for required fees, and the petition includes a statement of the nonsigning inventor's last known address. Items (1) and (2) are therefore satisfied.

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

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

Here, applicants have filed a declaration executed by two of the three inventors and including an unsigned signature box identifying the nonsigning inventor (Christian THARY). This application is treated as having been executed by the available inventors on their behalf and on behalf of the nonsigning inventor. Item (3) is therefore satisfied.

Regarding item (4), the petition asserts that the nonsigning inventor has refused to execute the declaration. However, before a refusal to execute the application can be claimed, the MPEP § 409.03(d) requires that the nonsigning inventor be provided with a copy of the complete application, including specification, drawings, and claims. The MPEP also requires "a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made."

Here, the evidence submitted by applicants to demonstrate Mr. THARY's purported refusal to execute the application is contained in the petition itself and its attachments. The petition states that the nonsigning inventor has been presented with the full application papers, as required before a refusal to sign can be asserted. However, the person signing the petition is not the person who mailed the application materials to the nonsigning inventor and therefore cannot provide the required firsthand statement regarding this correspondence. Applicants must provide a firsthand statement from Lisa Terry, the person who purportedly mailed the complete application papers to the nonsigning inventor, in which Ms. Terry confirms that she sent the complete application papers to the nonsigning inventor. In addition, the correspondence from the nonsigning inventor regarding the refusal to sign was directed to Robert McBeth. Applicants must also provide a firsthand statement from Mr. McBeth regarding his communications with

Mr. THARY. Based on the above, the evidence submitted with respect to applicants refusal to execute the application does not satisfy the requirements set forth in MPEP § 409.03(d). Accordingly, item (4) is not satisfied.

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

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)" and should include adequate evidence that the nonsigning inventor has been presented with a copy of the complete application papers and has refused to execute the application, as discussed above and in the form required by MPEP § 409.03(d) (i.e., statements from Lisa Terry and Robert McBeth providing firsthand evidence that Mr. THARY has been presented with a copy of the complete application papers and that he has refused to sign the application).

No additional petition fee is required. Failure to file a timely response will result in abandonment of the application.

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

17 AUG 2004

#7

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Robin Asher
CLARK HILL PLC
500 Woodward Avenue
Suite 3500
Detroit, MI 48226-3435

In re Application of INWERSENT, Karsten, et al. U.S. Application No.: 10/312,944 PCT No.: PCT/US01/21027 International Filing Date: 02 July 2001 Priority Date: 30 June 2000 Attorney's Docket No.: 19365-092442 For: AUTOMOTIVE TRIM COMPONENT HAVING AN ELASTOMERIC SKIN WITH A FOAM CORE AND METHOD FOR MAKING SAME	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to the "Response To Decision On Petition Under 37 CFR 1.47(a)" filed by applicant on 26 May 2004. No additional petition fee is required; however, Deposit Account No. 50-1759 will be charged the fee for a two-month extension of time so that the present submission can be treated as a timely response to the decision mailed by this Office on 04 February 2004.

BACKGROUND

The procedural background for this petition is set forth in detail in the decision mailed by this Office on 04 February 2004. In that decision, applicants' petition under 37 CFR 1.47(a) for acceptance of a declaration without the signature of inventor Christian THARY was dismissed without prejudice.

On 26 May 2004, applicants filed the "Response To Decision On Petition Under 37 CFR 1.47(a)" considered herein. This submission included a declaration executed by the previously non-signing inventor. As noted above, petitioner's Deposit Account will be charged the two-month extension fee required to make this submission a timely response to the previous decision.

DISCUSSION

The renewed petition was accompanied by a copy of the declaration executed by all the inventors, including Christian THARY, the previously non-signing inventor who was the subject of the earlier petition under 37 CFR 1.47(a). Accordingly, applicants' petition under 37 CFR 1.47(a) is now moot. Applicants have now submitted a fully executed declaration in compliance with 37 CFR 1.497.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **MOOT.**

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date is 26 May 2004.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
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BURTON A. AMERNICK
CONNOLLY, BOVE, LODGE & HUTZ
1990 M STREET NW, SUITE 800
WASHINGTON, DC 20036-3425

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OFFICE OF PETITIONS

In re Application of	:
Torsten Ronn et al	:
Application No. 10/312,947	: DECISION GRANTING PETITION
Filed: July 28, 2003	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 20459-00365-US	:

This is a decision on the petition, filed December 12, 2006 and supplemented on December 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 December 8, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3641 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\Dec10\312947.wpd

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

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03 JAN 2006

Burton A. Amernick
CONNOLY BOVE LODGE & HUTZ LLP
1990 M Street, N.W.
Washington, DC 20036-3425

In re Application of JOHANSSON, Nils U.S. Application No.: 10/312,955 PCT No.: PCT/SE01/01400 Int. Filing Date: 20 June 2001 Priority Date: 03 July 2000 Attorney Docket No.: 20459-00367-US For: A DEVICE FOR COMBATING TARGETS	**DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)**

Applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed via facsimile on 15 December 2004 is hereby **GRANTED** as follows:

The above-captioned application was abandoned for failing to respond to 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) mailed 28 April 2003.

Applicant's response included a declaration in compliance with 37 CFR 1.497(a) and (b) and the $130.00 surcharge fee. The $1,500.00 petition fee has been charged to Deposit Account No. 22-0185 as authorized. Applicants' statement is sufficient to meet the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 20 June 2001, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 15 December 2004. 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.: (571) 272-3302

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Paper No. None

Patrick J O'Shea
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Boston MA 02110

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APR 0 3 2006
OFFICE OF PETITIONS

In re Application of	:	
Ewald Boehler et al.	:	
Application No. 10/312,975	:	DECISION ON PETITION
Filed: May 6, 2003	:	UNDER 37 C.F.R. §1.137(b)
Attorney Docket Number:	:	
WESTPHAL.7022	:	
Title: PRESSURE TRANSMITTER	:	

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

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed June 9, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue fees or publication fees[2]. Accordingly, the

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.

2 See MPEP §710.02(e).

above-identified application became abandoned on September 10, 2004.

37 C.F.R. §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 C.F.R. §1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 C.F.R. §1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 C.F.R. §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.

With the present petition, Petitioner has submitted the petition fee, the publication fee, the issue fee[3], and a statement which is being construed as the proper statement of unintentional delay.

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

The phone number for the Office of Patent Publication is (571) 272-4200. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

The Change of Correspondence Address has been entered and made of record.

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

3 Petitioner has submitted the issue fee which was due in 2004, instead of the issue fee which is presently due. As such, the deficiency has been charged to his Deposit Account, as authorized in the petition.

06 JUL 2004

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Richard P. Bauer
KATTEN MUCHIN ZAVIS ROSENMAN
525 West Monroe Street
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Chicago, IL 60661-3693

In re Application of	:	
MORRISON et al.	:	
Application No.:10/312,983	:	
PCT Application No.: PCT/CA01/00980	:	DECISION ON
International Filing Date: 05 July 2001	:	
Priority Date: 05 July 2000	:	PETITION
Attorney Docket No.: 204694-00090	:	
For: CAMERA-BASED TOUCH SYSTEM	:	UNDER 37 CFR 1.137(b)

Applicants' "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," (petition for revival) filed in the United States Patent and Trademark Office (PTO) on 12 May 2004 is **DISMISSED**.

BACKGROUND

On 05 July 2001, applicants filed international application PCT/CA01/00980. The international application claims a priority date of 05 July 2000 and designates the United States. The deadline for entry into the United States National Stage was thirty months from the priority date, that is 05 January 2003.

On 03 January 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*,: the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a copy of the international application as required by 35 U.S.C. 371(c)(2). An oath as required by 35 U.S.C. 371(c)(4) was not filed. Applicants claimed small entity status in the transmittal letter, and the national fee paid was paid based upon small entity status. In addition, the Customer Number identified in the transmittal letter was 21760.

On 13 February 2003, the United States Designated/Elected Office (DO/EO) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating 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, and a surcharge ($65) for providing the oath or declaration later than 30 months from the priority date must be submitted within two months of the date of the Notification or by 32 months from the priority date, whichever is later. The period for response expired 13 April 2003, two months from the mail date of the Notification.

The application became abandoned on 13 April 2003 because applicants failed to respond to the Notification.

On 12 May 2004, applicants filed the instant petition for revival accompanied by, *inter alia*, an authorization to charge Applicants' Deposit Account No. 50-1710 with a petition fee of $1330.00 (the fee for other than small entity), a copy of the page 2 of the transmittal letter, and photocopies of the PTO-stamped return post card with which the transmittal letter had been submitted on 03 January 2003.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper reply, (2) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (3) the petition fee required by law, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Applicants have stated in the instant petition that the transmittal letter filed 03 January 2003 included the incorrect Customer Number 21760, whereas the correct Custom Number is 27160.

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 pursuant 37 CFR 1.137(b) was unintentional," satisfies the requirements of 37 CFR 1.137(b)(3). The petition fee ($1330), as authorized, has been charged to applicants' Deposit Account, satisfying the requirement of 37 CFR 1.137(b)(2). A terminal disclaimer is not required because the application was filed on or after 08 June 1995. However, the requirement of 37 CFR 1.137(b)(1) for applicants to file a proper reply has not been satisfied since a declaration of the inventors and surcharge for late filing of the declaration have not been filed.

The petition fee of $1330 charged to applicants' deposit account is the petition fee amount required for other than small entity status. The petition fee for small entity status (the status claimed by applicants) is $665. Accordingly, applicants made an overpayment of $665.

CONCLUSION

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.

The application remains **ABANDONED** with respect to the United States.

A overpayment of $665 with respect to the petition fee is being refunded to applicants' Deposit Account 50-1710.

The Customer Number for the application will be changed from 21760 to 27160 in the PTO records.

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 request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)" and should accompanied by a proper response, including a declaration of the inventors and the surcharge fee of $65 for late filing of the declaration. 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 Mail Stop PCT, Commissioner of Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Jimmy G. Foster
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19 NOV 2004

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PATENT ADMINISTRATOR
KATTEN MUCHIN ZAVIS ROSENMAN
525 WEST MONROE STREET
SUITE 1600
CHICAGO, IL 60661-3693

In re Application of MORRISON et al. Serial No.: 10/312,983 PCT App. No.: PCT/CA01/00980 Int'l Filing Date: 05 July 2001 Priority Date: 05 July 2000 Attorney Docket No.: 204694-00090 For: CAMERA-BASED TOUCH SYSTEM	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 07 September 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' previously stated 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)" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that required petition fee of $665 was provided. Applicants have now submitted the proper reply with the filing of an executed declaration in compliance with 37 CFR 1.497(a) & (b). Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **07 September 2004.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286
Facsimile: 571-273-0459

10 MAR 2004

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Young & Thompson
745 South 23rd Street
Arlington, VA 22202

In re Application of COLONAT, Jean-Francois, et al. Application No.: 10/312,990 PCT No.: PCT/FR01/02016 Int. Filing Date: 26 June 2001 Priority Date: 03 July 2000 Attorney Docket No.: 0508-1062 For: DEHYDRATED PLANT PRODUCT AND METHOD FOR OBTAINING IT	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is in response to applicants' "Petition Under 37 CFR §1.47(a)" filed in the United States Patent and Trademark Office (USPTO) on 28 November 2003.

BACKGROUND

On 26 June 2001, applicants filed international application PCT/FR01/02016, claiming a priority date of 03 July 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (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 08 November 2001, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 03 January 2003.

On 03 January 2003, 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 21 April 2003, USPTO 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) was required.

On 16 October 2003, applicants submitted "Response to Notification of Missing Requirements," accompanied by a declaration executed by two of the three inventors and the fee for a four month extension of time.

On 28 October 2003, the Office mailed Notification of Defective Response (Form PCT/DO/EO916) indicating the declaration was defective as the second inventor had not signed.

On 28 November 2003, applicants submitted the instant petition.

DISCUSSION

In applicants' Response to the Notification of Missing Requirements, applicants instructed the Office to charge the four month extension of time fee and instructed that the Office charge the $2010 fee to deposit account no. 25-0120. However, the four month extension of time fee is $1480, not $2010 (the fee for a five month extension of time). The difference between the fees will be credited back to the deposit account.

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the non-signing applicant.

Items (1), (2), (3) and (4) have been satisfied. The fee under 37 CFR 1.17(h) will be charged to deposit account no. 25-0120, as authorized. Applicants have supplied evidence that the non-signing inventor was presented with a complete copy of the application papers and has refused to sign the declaration. Applicants state that the last known address of inventor Regis Bouillon is 4, rue de Toul; 55200 Vertusey; France. The declaration submitted 16 October 2003 complies with 37 CFR 1.47(a) and 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date of **16 October 2003**.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

10 MAR 2004

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Regis Bouillon
4, rue de Toul
55200 Vertusey
France

In re Application of
COLONAT, Jean-Francois, et al.
Application No.: 10/312,990
PCT No.: PCT/FR01/02016
Int. Filing Date: 26 June 2001
Priority Date: 03 July 2000
Attorney Docket No.: 0508-1062
For: DEHYDRATED PLANT PRODUCT AND METHOD FOR OBTAINING IT

Dear Mr. Bouillon:

You are named as an inventor in the above-captioned United States national stage 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. The counsel for the applicant is listed below. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Boris Milef
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PCT Legal Administration

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JAN 31 2007

OFFICE OF PETITIONS

In re Application of :
Yasutaka Igari, et al. :
Application No. 10/312,998 :
Filed: January 2, 2003 :
Attorney Docket No. 087147-0587 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 1, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 22, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A two-month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained on July 12, 2006 extending the applicant's response time until July 22, 2006. Accordingly, the date of abandonment of this application is July 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 a Request for Continued Examination (RCE) and fee of $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1654 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Paper No. 7

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FEB 19 2004

OFFICE OF PETITIONS

In re Application of
Matthew W. Kay et al.
Application No. 10/313,001
Filed: December 6, 2002
Attorney Docket No. 3011-0010

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(b)

This is in response to the petition filed June 16, 2003, under 37 CFR 1.47(b).

The petition is **DISMISSED**.

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

The above-identified application was filed on December 6, 2002 without an executed oath or declaration.

Accordingly, on January 15, 2003, a "Notice To File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration, the statutory basic filing fee, and a surcharge for their late filing.

In response, on June 16, 2003, the present petition was filed, accompanied by the late filing surcharge, statutory basic filing fee, and a three (3) month extension of time.

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

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

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

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest, and

(6) proof of irreparable damage.

The petition lacks items (2) and (5).

As to item (2), an oath or declaration for the patent application in compliance with 37

CFR 1.63 and 1.64 has not been presented. A declaration in compliance with 37 CFR 1.63, 1.64, and 1.67 must be presented, signed by all of the signing inventors, if any. If no inventor(s) will sign the declaration, the declaration may be signed on behalf of the inventor by an assignee. The oath or declaration must be signed by an officer of the corporation (president, vice president, secretary, or treasurer) on behalf of and as agent for the non-signing inventor(s). The office must identify his/her title in the declaration, as well as his/her mailing address, residence, if the applicant lives at a different location from where he or she customarily receives mail, as well as the citizenship of individual signing on behalf of the non-signing inventor. If the oath or declaration is not signed by an officer of the corporation, then proof of authority of the person signing on behalf of the corporation must be submitted.[1]

In regards to item (5), petitioner must provide proof that the Rule 1.47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application.[2] Petitioners should provide a copy of the employment agreement between the non-signing inventor and the Rule 1.47(b) applicant (company); a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 1.47(b) applicant; or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 1.47(b) applicant.

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

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

By FAX: (703) 872-9306

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1] MPEP 409.03(b).

[2] MPEP 409.03(f).

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Paper No. 10

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OFFICE OF PETITIONS

In re Application of
Matthew W. Kay et al.
Application No. 10/313,001
Filed: December 6, 2002
Attorney Docket No. 3011-0010

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(b)

This is in response to the request for reconsideration under 37 CFR 1.47(b), filed April 19, 2004.

The petition is **DISMISSED**.

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

Petitioners have shown that a copy of the application was sent to the inventors, Matthew W. Kay, Matthew J. Laughlin and Colin P. Campbell, and that the inventors have failed to sign and return the declaration naming them as joint inventors. An oath or declaration executed by corporate principals from Adelphia Communications Corporation, Citicorp, Insight Communications Company, Inc., Motorola, Inc,., OpenTV US Investments, Inc., and individually by Gregory Sholpak, John Hand, Peter Finnegan and Michael V. Walrod, all purporting to be assignees and seeking status under 37 CFR 1.47(b) in the absence of signatures on the application by the joint inventors has been provided. The petition fee, a statement of the last known address of the non-signing inventors and a statement regarding irreparable damage has also been provided in support of the petition under 37 CFR 1.47(b).

With respect to the proprietary interest of the applicants, petitioners claim though that the non-signing inventors were employees of Commerce.TV Corporation and parties to a 'RECAPITALIZATION AGREEMENT", which divested them of their rights to any patents owned or used by the company. The instant application claims priority to provisional application no. 60/340,071 filed December 7, 2001 and as to proprietary interest, petitioners claim that Commerce.TV Corporation assigned its entire interest to provisional application no. 60/340,071 to Adelphia Communications Corporation, Citicorp, Insight Communications Company, Inc., Motorola, Inc,., OpenTV US Investments, Inc., and Meridian Carbontronics, LLC on April 17, 2002 and that further, Meridian Carbontronics, LLC assigned its entire interest in the provisional application and the instant, non-provisional application to Gregory Sholpak, John Hand, Peter Finnegan and Michael V. Walrod on November 16, 2003.

Petitioners have not shown though that the Rule 1.47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application.[1] Petitioners should provide a copy of the "RECAPITALIZATION AGREEMENT" between the non-signing inventors and Commerce.TV Corporation showing that the invention disclosed in the application was assigned to Commerce.TV Corporation or that the non-signing inventors had an obligation to assign any patent rights they may have had , or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 1.47(b) applicant by virtue of the assignments made by Commerce.TV Corporation.

As to item (5), Rule 47(b) applicant failed to show or provide proof that Commerce.TV Corporation as an entity had sufficient proprietary interest in the subject matter to assign and thus to justify the filing of the application.[2] Initially, it is brought to petitioner's attention that, in the absent of an assignment, the PTO will presume the named inventors to be the owner of the rights, title, and interest to an application.[3]

There is no copy of record of any executed instrument whereby Kay, Laughlin and Campbell conveyed their rights in this application to Commerce.TV Corporation or any other party. The chain of title clearly lacks the first step: the assignment of Kay, Laughlin and Campbell's ownership rights to any party.

Acceptable proof of proprietary interest would normally include a copy of the employment agreement between Kay, Laughlin, Campbell and Commerce.TV Corporation, *and* a clear indication that the instant invention was made by Kay, Laughlin and Campbell during their employment with Commerce.TV Corporation. While the latter averment is of record, the former document is not. Nevertheless, the missing employment agreement, even if made of record, 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.[4]

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

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

By FAX: (703) 872-9306

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] MPEP 409.03(f).

[2] See MPEP 409.03(f).

[3] See 37 CFR 3.73(a).

[4] See, Arachnid, Inc. v. Merit Industries, Inc. 939 F.2d 1574, 1580 19 USPQ2d 1513, 1518 (Fed. Cir. 1991).

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Paper No. 13

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OFFICE OF PETITIONS

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

In re Application of
Matthew W. Kay et al.
Application No. 10/313,001
Filed: December 6, 2002
Attorney Docket No. 3011-0010

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(b)

This is in response to the request for reconsideration filed under 37 CFR 1.47(b), on August 24, 2004.

The petition is **GRANTED**.

A petition was filed June 16, 2003 and dismissed in a decision mailed February 19, 2004. A request for reconsideration was filed April 19, 2004 and dismissed in a decision mailed June 24, 2004. Comes now petitioner with a second request for reconsideration seeking status under 37 CFR 1.47(b) claiming 1) that the joint inventors Kay, McLaughlin and Campbell cannot be reached or refuse to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) that the oath or declaration executed by the assignees on behalf of the non-signing inventors is in compliance with 35 U.S.C. §§ 115 and 116; (3) that the petition fee was paid with the original petition filed June 16, 2003; 4) that the addresses of the non-signing inventors provided for in the petition is the last known addresses for each of the non-signing inventors; 5) that the assignees have proprietary interest in the patent application; and 6) that without status under 37 CFR 1.47(b) the assignees would suffer irreparable damage.

In the prior petitions, petitioners sufficiently showed that a copy of the application was sent to the inventors, Matthew W. Kay, Matthew J. Laughlin and Colin P. Campbell, and that the inventors have failed to sign and return the declaration naming them as joint inventors. An oath or declaration executed by corporate principals from Adelphia Communications Corporation, Citicorp, Insight Communications Company, Inc., Motorola, Inc,., OpenTV US Investments, Inc., and individually by Gregory Sholpak, John Hand, Peter Finnegan and Michael V. Walrod, all purporting to be assignees and seeking status under 37 CFR 1.47(b) in the absence of signatures on the application by the joint inventors has been provided. The petition fee, a statement of the last known address of the non-signing inventors and a statement regarding irreparable damage has also been provided in support of the petition under 37 CFR 1.47(b).

As to the remaining requirement, petitioners have shown that CTV was a proper assignee with proprietary interest in the above-identified application. A statement from the attorney of record argues that Massachusetts is the competent jurisdiction under the circumstances and that Brian Falvey, the President of the assignee/assignor, CTV, also an Attorney and a member of the Massachusetts Bar and familiar with the law of

also an Attorney and a member of the Massachusetts Bar and familiar with the law of the jurisdiction, opines that a court of competent jurisdiction would find that all rights, title and interest in the inventions disclosed in provisional application 60/340,071, on which the subject application claims priority, from Matthew W. Kay, Matthew J. Laughlin and Colin P. Campbell to CTV would by the weight of authority in the jurisdiction award title of the invention to CTV.

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

As provided in Rule 1.47(b), this Office will forward notice of this application's filing to the non-signing inventors. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MATTHEW W. KAY
3 CHARLES EVERETT WAY
HINGHAM, MA 02043

MATTHEW H. LAUGHLIN
1575 KALMIA AVENUE
BOULDER, CO 80304

COLIN P. CAMPBELL
60 ROBINWOOD ROAD
NORWOOD, MA 02062

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SEP 1 7 2004

OFFICE OF PETITIONS

In re
Matthew W. Kay et al.
Application No. 10/313,001
Filed: December 6, 2002
Title of Invention: ELECTRONIC BUYING GUIDE ARCHITECTURE

Dear Mr. Kay, Mr. Laughlin and Mr. Campbell:

You are named as joint inventors 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 joint inventors.

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

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (703) 305-4497. Effective September 27, 2004 the number will be (571) 272-3212. 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).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

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

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ANTONELLI, TERRY, STOUT & KRAUS, LLP
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ARLINGTON VA 22209

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OFFICE OF PETITIONS

In re Application of:
Matthew W. Kay et al.
Application No. 10/313,001
Filed: December 6, 2002
Attorney Docket No: 3011-0010

ON PETITION

This is a decision on the petition under 37 C.F.R. §1.183, filed August 24, 2004, to waive the requirements of 37 CFR 1.59(a) and expunge the Master Exchange and Recapitalization Agreement.

The petition is **GRANTED.**

Pursuant to 37 CFR 1.59(a)(1) Information in an application will not be expunged and returned, except as provided in paragraph (b) of this section, (2) Information forming part of the original disclosure (i.e., written specification including the claims, drawings, and any preliminary amendment specifically incorporated into an executed oath or declaration under §§ 1.63 and 1.175) will not be expunged from the application file. However, under 37 CFR 1.59(b), an applicant may request that the Office expunge and return information, other than what is excluded by paragraph (a)(2) of this section, by filing a petition under this paragraph. Any petition to expunge and return information from an application must include the fee set forth in § 1.17(h) and establish to the satisfaction of the Commissioner that the return of the information is appropriate.

A petition to expunge a part of the original disclosure must be filed under 37 CFR 1.183,[1] since such a request requires a waiver of the requirements of 37 CFR 1.59(a).[2] The petition must explain why justice requires waiver of the rules to permit the requested material to be expunged. It should be noted that petitions to expunge information which is a part of the original disclosure, such as the specification and drawings, will ordinarily not be favorably entertained. The original disclosures of

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

[2] *M.P.E.P. 724.05(IV)*

applications are scanned for record keeping purposes. Accordingly, the grant of a petition to expunge information which is part of the original disclosure would require that the USPTO record of the originally filed application be changed, which may not be possible.

The petition, filed by the assignee, an interested party, asserts that the material in question is not a part of the original disclosure and is not material to patentability. Petitioner argues that the information contained in the Master Exchange and Recapitalization Agreement is proprietary material and has not been otherwise made public.

Ordinarily, the requirement is that a commitment be made on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted. 37 CFR 1.183 gives the Commissioner or his designee the authority, *sua sponte*, to impose any such requirements as would be necessary for, in this case, the granting of a petition to expunge information used to accord 37 CFR 1.47(b) status to an application for which the inventors refused to execute the declaration. The information was specifically submitted as evidence that the assignees signing the declaration on behalf of the non-signing inventors had proprietary interest in the application.

Since the issue of proprietary interest has been decided not by the information included in the Master Exchange and Recapitalization Agreement but instead by the opinion of an attorney familiar with the laws of Massachusetts, that all rights, title and interest in the inventions disclosed would vest in CTV, the Master Exchange and Recapitalization Agreement will be expunged and thus is attached to this decision.

The application file is being forwarded to Technology Center 2613 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Attachment: Master Exchange and Recapitalization Agreement

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P.O. Box 1450
Alexandria, VA 22313-1450
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C.A. ROWLEY
51 RIVERSIDE PARKWAY
BOX 59
FRANKFORD ON K0K 2C0 CA CANADA

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OFFICE OF PETITIONS

In re Patent No. 6,883,669	:	
Issue Date: April 26, 2005	:	
Application No. 10/313,027	:	NOTICE
Filed: December 6, 2002	:	
Attorney Docket No. UBC143US		

This is notice regarding your communication filed March 27, 2009, which is being treated as request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed October 16, 2008.

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 **ACCEPTED.**

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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P.O. Box 1450
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Finnegan, Henderson, Farabow,
Garrett & Dunner, LLP
901 New York Avenue, NW
Washington, DC 20001-4413

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OFFICE OF PETITIONS

In re Application of :
Pierre Charneau et al. :
Application No. 10/313,038 : DECISION ON PETITION
Filed: December 6, 2002 : TO WITHDRAW
Attorney Docket No. 03495.0226-01 : 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 24, 2007.

The request is **APPROVED**.

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

The request was signed by Deborah Katz, former attorney with the firm of Finnegan, Henderson, Farabow, Garrett & Dunner.

Deborah Katz has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

A non-final rejection was mailed on August 10, 2007. Failure to timely respond will result in the abandonment of this application.

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

Kimberly Inabinet

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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DAVID W. HIGHET, VP & CHIEF IP COUNSEL
BECTON, DICKINSON AND COMPANY
(COOLEY GODWARD)
1 BECTON DRIVE, MC 110
FRANKLIN LAKES, NJ 07417-1880

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OFFICE OF PETITIONS

In re Application of	:	
Debernardi et al.	:	
Application No. 10/313,039	:	DECISION ON PETITION
Filed: December 6, 2002	:	
Attorney Docket No. BDBI-003/00US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 19, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees, (2) the petition fee, and (3) a proper statement of unintentional delay.

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

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

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

cc: COOLEY GODWARD KRONISH LLP
SUITE 1100
777 6TH STREET, NW
WASHINGTON, DC 20001

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Bristol-Myers Squibb Company
Patent Department
PO Box 4000
Princeton NJ 08543-4000

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OFFICE OF PETITIONS

In re Application of
Walker et al.
Application No. 10/313,058
Patent No. 6,777,440 B2
Filed: December 06, 2002

: DECISION GRANTING PETITION

This decision is in response to Applicants "PETITION TO CORRECT PATENT TERM ADJUSTMENT PERIOD IN GRANTED PATENT' timely[1] filed on October 18, 2004 requesting that the Office adjust the PTA determination at the time of the issuance of the patent from a determination of 26 days to a determination of 61 days.[2]

Applicants' request to correct PTA is **GRANTED.** The Office will *sua sponte* issue a certificate of correction correcting the PTA reflected on the front of the patent from a determination of twenty-six (26) days to an amount of sixty-one (61) days. The Office will adjust the PTA determination reflected in PAIR to reflect this decision.

Applicants assert that the Office erred in the reduction of PTA in an amount of thirty-five (35) days for the submission of drawings after the mailing of the notice of allowance . Applicants assert that there were no drawings filed in the application. Applicants further assert that the sixty-one days granted for the Office delay is correct. Accordingly, applicants allege that the correct amount of PTA at the time of the mailing of the notice of allowance is sixty-one days.

Applicants arguments are persuasive. Applicants are correct in that the applicants did not submit drawings in this application. Accordingly, the applicants should not have been assessed a thirty-five (35) day reduction for the submission of drawings after the mailing of the notice of allowance pursuant to 37 CFR 1.704(c)(10). Applicants did not fail to engage in any reasonable efforts to conclude prosecution of the application. Moreover, the sixty-one days of administrative delay pursuant to 37 CFR 1.702(a)(1) is accurate. Accordingly, the correct amount of PTA is sixty-one days (61-0=61).

After the mailing of this decision, the application will be forwarded to the certificate of correction branch for a prompt issuance of a certificate of correction.

---

[1]Patent issued on August 17,2004.

[2]The petition is considered filed pursuant to 37 CFR 1.705(d).

The Office will chage the $200.00 fee pursuant to 37 CFR 1.18(e) to deposit account 19-3880. No additional fees are necessary for the filing of the petition.

Any questions concerning this decision should be directed to Kery A. Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757.

Kery A Fries

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

cc: draft certificate of correction
Adjusted Pair calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

DEC -7 2005

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HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY, NY 12203

In re Application of COLGAN, GEORGE P. Appl No.: 10/313,105 Filed: December 06, 2002 Attorney Docket Number: 1997.003A	**DECISION GRANTING PETITION** *37 CFR 1.181*

This application is before the Director of Technology Center 3700 for petitioner's request to accept the response received May 17, 2005 as timely based on non-receipt of the office action mailed November 24, 2004. The petition submitted on May 17, 2005 and November 22, 2005 is considered pursuant to 37 CFR 1.181. No fee is required for this petition.

The petition is granted.

A review of the file history indicates that a Notice of Non-Compliant Amendment was mailed November 24, 2004. Petitioner alleges non-receipt of the Notice of Non-Compliant Amendment. In support of the request, petitioner has provided a showing of non-receipt of the Office action in accordance with MPEP 711.03(c)IA. It is noted that petitioner's statement that a search of the file and docket records indicated the communication was not received is ratified with the signature submitted on November 22, 2005. Accordingly, it appears that petitioner is entitled to have the Office action of November 24, 2004 remailed. However, petitioner has obtained a copy of the office action and subsequently filed a response with the petition on May 17, 2005. Therefore, physical remailing of the office action is not necessary and the complete listing of claims filed May 17, 2005 will be accepted as timely filed.

The application will be forwarded to the Technical Support Staff to have an entry in the PALM system made to show the office action of November 24, 2004 has been remailed On April 19, 2005. The complete listing of claims submitted May 17, 2005 will be entered into the file and the application will then be forwarded to the examiner for action.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

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MCCORMICK, PAULDING & HUBER LLP
CITY PLACE II
185 ASYLUM STREET
HARTFORD CT 06103

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OFFICE OF PETITIONS

In re Application of :
Alice Davis et al. :
Application No. 10/313,115 : ON PETITION
Filed: December 9, 2002 :
Attorney Docket No.: 6537-0007 :

This is a decision on the petition filed May 11, 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 19, 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 20, 2006. Accordingly, a Notice of Abandonment was mailed May 3, 2006.

The petition fee in the amount of $750.00 has been charged to deposit account no. 13-0235.

This matter is being referred to Technology Center 3731 for appropriate action on the amendment filed May 11, 2006.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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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)).

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Paper No. 4

HICKMAN PALERMO TRUONG & BECKER, LLP
1600 WILLOW STREET
SAN JOSE, CA 95125

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MAR 2 2 2004

OFFICE OF PETITIONS

In re Application of
Motoyama et al.
Application No. 10/313,158
Filed: December 6, 2002
Attorney Docket No. 49986-0516

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed March 5, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on December 8, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded, which sets forth the projected publication date of June 10, 2004.

This application is being forwarded to Technology Center 2100 for examination in due course.

Any inquiries concerning this decision may be directed to the undersigned at (703) 306-0482.

Liana Chase

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

James M. Slicker
7344 Hardisty
West Bloomfield MI 48324

COPY MAILED

SEP 20 2005

OFFICE OF PETITIONS

In re Application of :
Slicker et al. :
Application No. 10/313,208 : ON PETITION
Filed: December 5, 2002 :
Attorney Docket No. 001-MST-02:
:

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), filed September 6, 2005, to revive the above-identified application.

The petition under § 1.137(b) is **DISMISSED**.

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

The above-identified application became abandoned for failure to timely pay the required issue fee within the statutory period of three (3) months from the mailing date, July 28, 2004, of the Notice of Allowance and Fee(s) Due. Applicants submitted payment of the issue fee on October 15, 2004; however, the amount submitted was half of the amount for a small entity (There was no distinct requirement for new drawings). As no extensions of time are permitted for transmitting issue fees, the above-identified application became abandoned effective October 29, 2004. A courtesy Notice of Abandonment was mailed on August 23, 2005.

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

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

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

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

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

The instant petition does not satisfy requirement (1). The reply required in this instance is payment of the issue fee. However, the amount due is that, in effect, on the date of submission. The utility issue fee for a small entity is currently $700. At present, applicants have submitted $665. There is no authorization to charge a Deposit Account any outstanding issue fee. Thus, there is a deficiency of $35. Applicants are advised that if the fee increases prior to submission, the issue fee will be required in the higher amount to revive this application.

In order for the application to be revived, petitioner must submit the required reply within the meaning of 37 CFR 1.137(b)(1).

It is noted that the correspondence address of record remains with inventor Slicker.

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) 273-8300
ATTN: Office of Petitions

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

James M. Slicker
7344 Hardisty
West Bloomfield, MI 48324

COPY MAILED

JAN 18 2006

OFFICE OF PETITIONS

In re Application of :
Slicker et al. :
Application No. 10/313,208 : ON PETITION
Filed: December 5, 2002 :
Attorney Docket No. 001-MST-02:

This is in response to the letter received January 5, 2006, evidencing receipt of a prior response on September 28, 2005. These responses are being treated as a renewed petition under § 1.137(b).

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

The above-identified application became abandoned for failure to timely pay the required issue fee within the statutory period of three (3) months from the mailing date, July 28, 2004, of the Notice of Allowance and Fee(s) Due. Applicants submitted payment of the issue fee on October 15, 2004; however, the amount submitted was half of the amount for a small entity (There was no distinct requirement for new drawings). As no extensions of time are permitted for transmitting issue fees, the above-identified application became abandoned effective October 29, 2004. A courtesy Notice of Abandonment was mailed on August 23, 2005.

By decision mailed September 20, 2006, the initial petition to revive filed September 6, 2005 was dismissed. Petitioner had not submitted the required reply - the issue fee at the current amount of $700. A deficiency of $35 was due.

On instant renewed petition, petitioner has established that the deficiency of $35 was originally submitted on September 28, 2005. (On January 5, 2006, petitioner resubmitted the accompanying letter and a copy of the back of the check submitted to show that the payment was previously made). In light of this letter, and the finance records for this application, it is concluded that petitioner has satisfied the required reply requirement of 1.137(b). Petitioner has now met all outstanding requirements for revival.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded to the Publishing Division for processing into a patent.

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON, MA 02109

COPY MAILED
NOV 1 3 2006
OFFICE OF PETITIONS

In re Application of	:	
Fanucci, et al.	:	DECISION ON PETITION
Application No. 10/313,222	:	
Filed: December 6, 2002	:	
Docket No.: KAZAK-012XX	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed August 21, 2006.

This application was held abandoned for failure to timely submit an appeal brief in response to the Notice of Appeal submitted January 24, 2006. Notice of Abandonment was mailed August 14, 2006.

Petitioners assert that the Notice of Abandonment was prematurely mailed.

The Notice of Appeal was filed January 24, 2006. The appeal brief was due two months thereafter, the period of time being extendible under 37 CFR 1.136(a). Moreover, a pre-trial appeal conference decision was mailed February 15, 2006. The decision reset the period of time for appeal brief submission to one month from the date of the decision and, further, set forth the extendible period of time for submission of the appeal brief.

Petitioners' arguments have been carefully considered and found convincing. In view of the arguments submitted, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 3600 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

EDGAR SPIELMAN
ALBEMARLE CORPORATION
451 FLORIDA BOULEVARD
BATON ROUGE, LA 70801

COPY MAILED

AUG 23 2007

OFFICE OF PETITIONS

In re Application of	:	
Jonathan N. Howarth	:	
Application No. 10/313,243	:	DECISION GRANTING PETITION
Filed: December 6, 2002	:	UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. SU-7222-A	:	

This is a decision on the petition, filed August 21, 2007, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment. *See* 37 CFR 1.313(c)(3).

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

EDGAR SPIELMAN
ALBEMARLE CORPORATION
451 FLORIDA BLVD.
BATON ROUGE LA 70801

In re Application of	:	
Jonathan N. Howarth	:	
Application No. 10/313,245	:	ON PETITION
Filed: December 6, 2002	:	
Attorney Docket No. SU-7222-C	:	

This is a decision on the petition, filed April 27, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on April 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) 272-3208.

The examiner of Technology Center AU 1761 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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EDGAR SPIELMAN
ALBEMARLE CORPORATION
451 FLORIDA BLVD.
BATON ROUGE LA 70801

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MAY 04 2005

OFFICE OF PETITIONS

In re Application of :
Jonathan N. Howarth :
Application No. 10/313,245 :
Filed: December 6, 2002 :
Attorney Docket No. SU-7222-C :

ON PETITION

This is a decision on the petition, filed April 27, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 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) 272-3208.

The examiner of Technology Center AU 1761 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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FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS MN 55440-1022

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SEP 23 2009

OFFICE OF PETITIONS

In re Patent No. 7,409,405	:
Issued: August 5, 2008	: DECISION ON APPLICATION
Application No. 10/313,246	: FOR PATENT TERM ADJUSTMENT
Filed: December 2, 2002	:
Attorney Docket No.: 07844-0555001 /	:
P510	:

This is a decision on the 1) "PETITION UNDER 37 C.F.R. §1.183" for a suspension of 37 C.F.R. § 1.705(d) and (e) filed more than two months from the date the above-referenced patent issued; and 2) for acceptance of the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," both filed on December 2, 2008.

The petition under 37 CFR 1.183 is **dismissed**.

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

Any request for reconsideration, whether directed to the decision on petition under 37 CFR 1.183 or to the decision on application for patent term adjustment under 37 CFR 1.705(d), must be filed within two months of the mailing date of this decision. Extensions of time under 37 CFR 1.136 are not permitted. See § 1.181(f).

BACKGROUND

On August 5, 2008, the above-identified application matured into U.S. Patent No. 7,409,405, with a patent term adjustment of 667 days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued. Patentee now petitions under 37 C.F.R. § 1.183 to (i) suspend or waive the requirement of 37 C.F.R. § 1.705(d) that a Request for Reconsideration of Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed Request for Application for Patent Term Adjustment. Patentee references the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008) as the basis for the petition.

ON PETITION UNDER 37 CFR 1.183
TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 CFR 1.705(d)

The above-referenced patent issued on August 5, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until December 2, 2008. Petitioner requests that the Office suspend the rules and consider on the merits the Application for Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by October 5, 2008, the date two months from the date this patent issued, August 5, 2008. Rather, on December 2, 2008, nearly three months after the issuance of a decision in Wyeth v. Dudas on September 30, 2008, petitioner filed the instant request for waiver of the two-month requirement.

37 CFR 1.183 provides that:

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

35 U.S.C. 154, requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director, authorizes the Director to establish the procedures for requesting such reconsideration. Those procedures[1] include pursuant to 37 CFR 1.705(d) setting a two-month period for

[1] 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination

filing a request for reconsideration of the revised patent term adjustment indicated in the patent.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. The primary basis for requesting waiver set forth by petitioner is "the extraordinary situation presented by the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008)." Specifically, petitioner states that "as a result of this change in the law, which occurred more than one month after the above entitled patent issued, petitioner could not reasonably have timely presented a request for reconsideration of the patent term adjustment."

in Wyeth, the U.S. District Court for the District of Columbia held that contrary to USPTO practice, a patentee is entitled to Patent Term Adjustment credit for examination delay under 37 CFR 1.702(b) in addition to any examination delay under 37 CFR 1.702(a), to the extent that the two periods of delay "do not occur on the same calendar day or days."

Petitioner has not explained why it could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued. Apparently, petitioner's argument is that the basis for the Application for Patent Term Adjustment is the Wyeth decision, which was entered nearly two months after the issuance of their patent.

The fact that any relief ultimately granted in Wyeth would benefit patentee had they timely filed a request for reconsideration does not make the situation extraordinary. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A), Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

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of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

Petitioner chose not to challenge their patent term adjustment within the two-month period. Petitioner's argument that they could not have filed an Application Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered nearly two months after the issuance of their patent, is not persuasive.

Petitioner could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioner may have chosen not to file a request for reconsideration based on a conclusion that the Office's interpretation of 35 U.S.C. § 154(b)(2)(A) was correct. Nonetheless, the fact that the District Court has now issued an Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision. In addition, given that the law only allows 180 days for both the filing of a petition and for the Office's consideration of that petition, petitioner's unexplained nearly four-month delay in filing the petition weighs against them.

Petitioner simply fails to articulate how their failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to an extraordinary situation. Petitioner cannot rely on Wyeth's actions or the Wyeth decision to establish that their situation was extraordinary.

The contention that a decision is in error is a basis for a timely request for review of the decision but does not justify a delay in seeking review of such decision.

The Office provided notice that petitions under 37 CFR 1.82 and 1.83 or requests for certificate of corrections under 35 USC 354 and Sec. 1.323 or 35 U.S.C. 255 and Sec. 1.324 are not substitute *fora* to obtain to obtain reconsideration of a patent term adjustment determination indicated in a notice of allowance if applicant fails to submit a request for reconsideration within the time period specified in Sec. 1.705(b) or to obtain reconsideration of a patent term adjustment determination indicated in a patent if a patentee fails to submit a request for reconsideration within the time period specified in Sec. 1.705. See 69 Fed. Reg. 21704, 21707 (April, 22, 2004).

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is **dismissed**.

Accordingly, consideration now turns to the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d).

ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed December 2, 2008. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to one thousand one hundred forty (1140) days.

On August 8, 2008, the above-identified application matured into U.S. Patent No. 7,409,405 with a patent term adjustment of 667 days. The instant request for reconsideration was filed nearly four months after the issuance of the patent, on December 2, 2008.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

CONCLUSION

It is determined that waiver of the requirement pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

Receipt of the fees required for the petition under 37 CFR 1.183 and the application for patent term adjustment is acknowledged.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Nancy Johnson

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/313,274	12/06/2002	Kazem Eradat Oskoui	W446.12-0001	7730

27367 7590 02/04/2008
WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402-3319

EXAMINER
BOS, STEVEN J

ART UNIT	PAPER NUMBER
1754	

MAIL DATE	DELIVERY MODE
02/04/2008	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.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor :	Mr. Kazem Eradat Oskoui	
Appln. No.:	10/313274	
Filed :	December 6, 2002	Group Art Unit: 1754
For :	METHOD OF EXTRACTING CONTAMINANTS FROM SOLID MATTER	Examiner: Steven J. Bos
Docket No.:	W446.12-0001	

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

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

Approved 2-4-08
Jacqueline M. Stone
Jacqueline M. Stone, Director
Technology Center 1700/2900

VIA ELECTRONIC FILING

Sir:

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 27367

NOTE: This box can 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:

Non-payment of fees for services rendered to firm.

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: West Central Environmental Consultants Incorporated

Address: 11253-91st Avenue N

City: Maple Grove

State: MN Zip:55369

Country:USA

Telephone: (763)425-7496 Fax:(763)425-7235

Respectfully submitted,

WESTMAN, CHAMPLIN & KELLY, P.A.

Dated: Dec. 17, 2007 By: Z. Peter Sawicki

Z. Peter Sawicki, Reg. No. 30,214
Suite 1400 - International Centre
900 Second Avenue South
Minneapolis, Minnesota 55402-3319
Phone: (612) 334-3222 Fax: (612) 334-3312

ZPS:njt

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DYKEMA GOSSETT PLLC
39577 WOODWARD AVENUE
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JAN 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Jon Houghton :
Application No. 10/313,298 :
Filed: December 6, 2002 :
Attorney Docket No. 60,935-005 :

ON PETITION

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to the Publishing Division.

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MAY 23 2005

OFFICE OF PETITIONS

In re Application of
Houghton, Jon
Application No. 10/313,298
Filed: December 6, 2002
Attorney Docket No. 60,935-005

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 18, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit formal drawings and the issue fee in a timely manner in reply to the Notice of Allowability and Notice of Allowance mailed October 13, 2004. Accordingly, the above-identified application became abandoned on January 14, 2005.

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

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Morriss O'Bryant Compagni, P.C.
136 South Main Street
Suite 700
Salt Lake City, UT 84101

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JUN 16 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of	:	
Brant Monson	:	
Application No.10/313,302	:	DECISION ON REQUEST
Filed: December 6, 2002	:	FOR WITHDRAWAL OF
For: BOLT AND METHOD OF USE	:	ATTORNEY

This is a decision on the request filed on May 12, 2003, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

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. For approval of such a request the following conditions must 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) 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);
C) 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;

The request to withdraw as attorney satisfies each of the conditions A) – C) above and the request is therefore **APPROVED**.

It is noted that all attorneys of record are listed for Customer Number 26986, as listed in the request for withdrawal of attorney, except for Mr. Randall B. Bateman. It is also noted that a phone call was made to Morris O'Bryant Compagni, resulting in confirmation that Mr. Randall B. Bateman, who is directed to in the new correspondence of address, remains as the **only** attorney of record in the Power of Attorney.

In summary, the request is **APPROVED**.

Kenneth J. Dorner, Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/dxn; 6/9/03

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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BATEMAN IP LAW GROUP
P.O. BOX 1319
SALT LAKE CITY, UT 84110

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APR 27 2009

OFFICE OF PETITIONS

In re Patent Application No. **6,811,365**
Application No. 10/313,302
Filed: December 6, 2002
Attorney Docket No. **1082.BMON.CI.DV**

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 11, 2008 and re-submitted January 21, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Randall B. Bateman, the sole attorney of record. Randall B. Bateman has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the sole named signing inventor Brant Monson at the address below until otherwise properly notified by the applicant.

The patent has expired due to nonpayment of maintenance fees under 37 CFR 1.362 on December 1, 2008.

Telephone inquiries concerning the status of the application or payment of the maintenance fees should be directed to the Maintenance Fee Division at 571-272-6400.

Inquires regarding this decision should be directed to the undersigned at 571-272-7253.

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

cc: **BRANT MONSON**
3875 NORTH COVE DRIVE
PROVO, UT 84604

UNITED STATES 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: October 2, 2006

Rudolf O. Siegesmund
2100 Ross Avenue
Suite 2650
Dallas, TX 75201

Patent No: 7092862 B2
Applicant: Charles Gordon Hooks
Issued: August 15, 2006
Title: **APPARATUS AND METHOD FOR DETERMINING WHETHER OBJECTS WILL COLLIDE**

Request for Certificate of Correction:

Consideration had been given to your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.322.

The alleged error in column 9, line 10, is a change made in an Examiner's amendment at time of allowance. Since applicant filed no objection prior to payment of the base issue fee, no correction is in order here under Rule 1.322.

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

Correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Virginia Tolbert
For Cecelia Newman, Supervisor
Decisions and Certificate of Correction
(703) 305-8309 or 308-9390 ext. 113

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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ITALIA IP
3500 WEST OLIVE AVE.
SUITE 300
BURBANK CA 91505

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JAN 16 2008

OFFICE OF PETITIONS

In re Application of	:	
Watson, Robert Michael	:	
Application No. 10/313,336	:	DECISION ON PETITION
Filed: December 6, 2002	:	
Attorney Docket No. WAT-001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 14, 2007, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center 2166 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 15

NEEDLE & ROSENBERG, P.C.
The Candler Building
127 Peachtree Street, N.E.
Atlanta, GA 30303-1811

In re Application of
Magnus Pfahl, Hussien A. Al-Shamma, Andrea Fanjul Giachino, David P.M. Pleynet, Haifeng Bao, Lyle W. Spruce, Christopher N. Cow, Catherine Tachdjian, James W. Zapf and Torsten R. Weimann
Application No. 10/313,341
Filed: December 6, 2002
Title of Invention:
2-SUBSTITUTED THIAZOLIDINONE AND OXAZOLIDINONE DERIVATIVES FOR THE INHIBITION OF PHOSPHATASES AND THE TREATMENT OF CANCER

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MAY 12 2003
OFFICE OF PETITIONS

DECISION ON PETITION

This decision is in response to the Petition under 37 CFR 1.182 to Change Inventor's Name as Listed on Patent Application, filed on March 18, 2003.

A grantable petition under 37 CFR 1.182 requires (1) the petition fee; and (2) either (a) a declaration signed with both names with an explanation of how the change was effected (marriage, divorce, etc.); or (b) provide a certified copy of a court order for the name change.

Petitioner has complied with the above requirements.

The petition is hereby **granted**.

The name change of inventor Andrea Fanjul Giachino has been entered and made of record.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/31/2007

TO SPE OF : ART UNIT 1700 (1712)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,199,083
Attn: Phillip C. Tucker

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

Please complete this form and return with file ***(PFW)**, within 7 days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location **7580** or forward ***(IFW)** to scanning using document code **COCX**.

***Ok to make changes to inventor's name as requested in COCIN?**

Ernest C. White, LIE (703) 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

The change to the name of the inventor in field (12) of the cover page is denied. There is no documentation of record to support such change.

SPE

1734
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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

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SEP 01 2006

OFFICE OF PETITIONS

In re Application of	:	
Peter S. Lu et al	:	
Application No. 10/313,354	:	ON PETITION
Filed: December 6, 2002	:	
Attorney Docket No. 020054-003410US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 25, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Office action mailed September 30, 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 above-identified application became abandoned on October 31, 2005.

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

This matter is being referred to Technology Center AU 1744 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE 3/18/09

Paper No.: —

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/313368 Patent No.: 7435765 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.

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

Comments: _____

[signature] Wu
SPE

1796
Art Unit

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SEP 13 2007

OFFICE OF PETITIONS

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

In re Patent No. 7,235,380	:	
Joliffe et al.	:	DECISION ON REQUEST
Issue Date: June 26, 2007	:	FOR
Application No. 10/313,392	:	RECONSIDERATION OF
Filed: December 4, 2002	:	PATENT TERM ADJUSTMENT
Title: CDR-GRAFTED ANTI-TISSUE	:	
FACTOR ANTIBODIES AND	:	
METHODS OF USE THEREOF	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED ON PATENT ISSUED," filed June 29, 2007. Patentees request that the patent term adjustment indicated in the patent be corrected from three hundred eighty-seven (387) days to two hundred sixty-seven (267) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **DISMISSED**.

Patentees are given **TWO (2) MONTHS** from the mailing date of this decision to respond. No extensions of time will be granted under § 1.136.

On June 26, 2007, the above-identified application matured into U.S. Patent No. 7,235,380. The present request for reconsideration filed June 29, 2007 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a Patent Term Adjustment of 387 days. Patentees request correction of the patent term adjustment to increase the patent term adjustment to 267 days on the basis

that the declaration that was submitted after the mailing of the notice of allowance was submitted in the absence of the mailing of a Notice of Missing Parts.

It is agreed that a Notice of Missing Parts was not mailed by the Office, however this fact is not relevant to the proper application of Rule § 1.704(c)(10).

The present application was filed with a declaration that is associated with the parent application, and the copy of the declaration which was presented on filing had been executed by only one of the three joint inventors. A notice of allowance and issue fee due was mailed by the Office on December 20, 2006. Petitioner has alleged that on February 25, 2007, an interview with the Examiner was conducted, and the Examiner indicated that the declaration had not been fully executed. It is noted in passing that the record does not appear to reflect that either the Examiner or the Applicant submitted an Interview Summary that is associated with this interview. On February 27, 2007, Applicant submitted a fully executed declaration (associated with the parent application), along with a communication that set forth that the declaration was submitted at the request of the Examiner, and that "Applicants apologize for this inadvertent error…"

37 C.F.R. § 1.704(c)(10) provides that:

> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
>
> or
>
> (ii) Four months;

In this instance, it is undisputed that a declaration was filed after the mailing of the Notice of Allowance. Whether the declaration was submitted at the request of the Examiner is irrelevant. The submission of amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process and thus, their filing constitutes a failure to engage within the meaning of 37

C.F.R. § 1.704(c)(10). The Director has identified certain papers, where the filing of which causes substantial interference with the patent issue process. The filing of these papers will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application. These papers include oaths or declarations. See Clarification of 37 C.F.R. § 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). See also MPEP 2732.

It is further noted that in this instance, applicants did not need to wait until after mailing of the notice of allowance to file an executed declaration. They could have corrected their filing error and filed an executed declaration (and late surcharge) prior to the mailing of the notice of allowance and avoided a reduction of patent term.

Accordingly, pursuant to § 1.704(c)(10), the patent term adjustment was properly reduced by 120 days, which is the period between the date the declaration was filed, February 27, 2007, and ending on the date of issuance of the patent, June 26, 2007.

In view thereof, the patent properly issued with a patent term adjustment of 387 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.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/21/08

Paper No.: —

TO SPE OF : ART UNIT 3731

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/313394 Patent No: 7288099B2

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: _____

ANHTUAN T. NGUYEN
SUPERVISORY PATENT EXAMINER
SPE 5/21/09.

3731
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 6

QUALCOMM Incorporated
5775 Morehouse Drive
San Diego CA 92121-1714

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SEP 0 9 2003

OFFICE OF PETITIONS

In re Application of
Primrose
Application No. 10/313,401
Filed: December 6, 2002
Attorney Docket No. 010381DV1
FOR: BALL GRID ARRAY X-RAY ORIENTATION MARK

DECISION GRANTING PETITION

This is a decision on the petition entitled, "PETITION TO REINSTATE THE FILING DATE," filed July 28, 2003, requesting, in effect, withdrawal of the Notice of Incomplete Nonprovisional Application (Notice), mailed March 19, 2003, insofar as it alleges that the application was filed without drawings . The petition will be treated under 37 CFR 1.53(e).

The application was deposited on December 6, 2002. On March 19, 2003, the Office of Initial Patent Examination mailed a Notice informing petitioner that no filing date had been accorded to the above-identified application because the application as filed did not include drawings. The Notice also required petitioner to submit a substitute specification in compliance with 37 CFR 1.52, 1.121(b)(3), and 1.125. Petitioner filed seven sheets of drawings, a substitute specification, and a newly executed oath/declaration on May 22, 2003 (certificate of mailing date May 19, 2003). It is noted that petitioner never alleged that any sheets of drawings were previously filed on December 6, 2002 when petitioner filed the seven sheets of drawings on May 22, 2003 (certificate of mailing date May 19, 2003).

Petitioner now requests that the application be accorded a filing date of December 6, 2002 on the basis that 7 sheets of drawing figures were received in the Patent and Trademark Office (PTO) on December 6, 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 6, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 7 sheets of formal drawings.

The return postcard constitutes *prima facie* evidence that 7 sheets of formal drawings were filed on December 6, 2002. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioners' request, the $130.00 petition fee will be credited to deposit account no. 17-0026.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of December 6, 2002, using the copy of the 7 sheets of formal drawings submitted on May 22, 2003 (certificate of mailing date May 19, 2003). Office records will be corrected to show that 7 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

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United States Patent and Trademark Office
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NEKTAR THERAPEUTICS
201 INDUSTRIAL ROAD
SAN CARLOS, CA 94070

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FEB 0 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Scot CHEU et al	:	
Application No. 10/313,419	:	DECISION ON PETITION
Filed: December 06, 2002	:	
Attorney Docket No. 0148.00	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 28, 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, October 02, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 03, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1,500.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of October 02, 2006 is accepted as having been unintentionally delayed.

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

The application file is being referred to Technology Center AU 3711 for appropriate action on the concurrently filed amendment.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
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APR 29 2009

OFFICE OF PETITIONS

James F. Wimbish
8300 Rider Road
Imlay City MI 48444

In re Patent No. 6,854,748	:	
Issue Date: February 15, 2005	:	
Application No. 10/313,436	:	ON PETITION
Filed: December 6, 2002	:	
Attorney Docket No. 42442.0001	:	

This is a decision on the petition under 37 CFR 1.378(c), filed March 23, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This patent expired at midnight February 15, 2009, for failure to pay the 3 ½ 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).

Any petition for reconsideration of this decision must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

Petitioner has submitted the instant petition without all the inventors' signature. Any petition under 37 CFR 1.378 must be signed by an attorney or agent registered to practice before the U.S. Patent and Trademark Office, or by the patentee, the assignee, or other party in interest. A person or organization whose only responsibility insofar as the patent is concerned is the payment of maintenance fee is not a party in interest for purposes of 37 CFR 1.378. If the petition is signed by a person not registered to practice before the Office, the petition must indicate that the person signing the petition is the patentee, assignee, or other party in interest. An assignee must comply with requirements of 37 CF 3.73(b) which is discussed in MPEP § 324. The instant petition has not been signed by all the listed inventors and there is no indication that the petitioner is authorized to act on behalf of the assignee or that he has a power of attorney from the other inventors. See MPEP § 2590.

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

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

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

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

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

Telephone inquiries should be directed to JoAnne Burke at (703) 571-272-4584.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: James F. Wimbish
15001 McFarland Road
Laurell Hill, NC 28351

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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James F. Wimbish
15001 McFarland Road
Laurell Hill, NC 28351

MAILED

SEP 14 2009

OFFICE OF PETITIONS

In re Patent No. 6,854,748	:	
Issue Date: February 15, 2005	:	
Application No. 10/313,436	:	ON PETITION
Filed: December 6, 2002	:	
Attorney Docket No. 42442.0001	:	

This is a decision on the renewed petition under 37 CFR 1.378(c), filed May 8, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired at midnight February 15, 2009, for failure to pay the 3½ 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 JoAnne Burke at (571) 272-4584.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
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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VP
PAPER NO. ___

AUG 3 2004

In re Application of
Remo Zuccato
Serial Number: 10/313,442
Filed: December 6, 2002
For: PROCESS FOR THE PREPARATION OF A VEGETABLE YOGURT

PETITION UNDER M.P.E.P.708.02 IV

This is in response to the petition filed November 7, 2003, requesting that the above-identified application be granted Special Status under Section 708.02 IV of the MPEP and 37 CFR 1.102(c) **(no fee required)**.

The request for Special Status considered under Section 708.02 IV of the MPEP is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C. Knode

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

BUCKNAM AND ARCHER
1077 Northern Boulevard
Roslyn NY 11576-1696

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 8

Renner, Kenner, Greive, Bobak, Taylor & Weber
Fourth Floor
First National Tower
Akron, OH 44308-1456

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OCT 02 2003

OFFICE OF PETITIONS

In re Application of Moulin et al. Application No. 10/313,470 Filed: December 5, 2002 Attorney Docket Number: CAC.P0027	: : : : : :	DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 28, 2003, to accept an unintentionally delayed claim for priority under 35 U.S.C. 120 from international PCT application PCT/FR01/01724, filed on June 5, 2001, which designated the U.S. and which was not published in English.

As this petition also requests acceptance of a delayed claim for priority under 35 U.S.C. § 119 from foreign application 0007403, filed on June 9, 2000, in France, this petition is jointly considered under 37 CFR 1.55(c).

This Petition is hereby **granted**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3), as well as, under 37 CFR 1.55(c), is applicable to those applications filed on or after November 29, 2000. Further, the petitions are appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 37 CFR 1.55(a)(1)(i), respectively. 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]

---

[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

(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.

Similarly, the petition under 37 CFR 1.55(c) must be accompanied by:

(1) The claim under 35 U.S.C. 119(a)-(d) or 365(a) and this section to the prior foreign application, unless previously submitted[2];

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed on December 5, 2002, and is pending. Enclosed with the instant petition is a preliminary amendment that amends the specification to conform with 37 CFR 1.78(a)(2). The petition also includes the claim under § 119 as required by 37 CFR 1.55(c)(1). Petitioner has paid the surcharge[3] and has made the required statement of unintentional delay.

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.78(a)(3) (as

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related applications may be made when appropriate (*see* § 1.14).

[2] For all applications, the claim to priority need be in no special form, and may be made by a person authorized to sign correspondence under 37 CFR 1.33(b). No special language is required in making the claim for priority, and any expression which can be reasonably interpreted as claiming the benefit of the foreign application is accepted as the claim for priority. See MPEP § 201.14(b).

[3] Only one surcharge is required when the petitions for late priority claims under § 1.78 and § 1.55 are jointly submitted.

well as, under § 1.55(c)) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application(s). In order for the instant application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met (and as to the foreign priority claim, all other requirements under 35 U.S.C. § 119 and 37 CFR 1.55(a) 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.

This application is being forwarded to Technology Center Art Unit 1725 for examination in due course.

Telephone inquiries concerning this decision should be directed to Senior Petitions Attorney Nancy Johnson at (703) 305-0309.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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Commissioner for Patents
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PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110

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AUG 27 2007

OFFICE OF PETITIONS

In re	:	
Smith, et al.	:	
Application No. 10/313,516	:	DECISION ON APPLICATION
Filed: December 6, 2002	:	FOR PATENT TERM ADJUSTMENT
Patent No. 7,238,266	:	
Issued: July 3, 2007	:	

This is a decision on the "PETITION FOR THE WAIVER OF RULES UNDER 37 CFR 1.183 AND APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705", filed July 3, 2007.

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

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

The Notice of Allowance was mailed on February 27, 2007. Applicants paid the issue fee on May 25, 2007. Pursuant to 37 C.F.R. §1.705(b), a request for reconsideration of the patent term adjustment indicated in the Notice of Allowance must be filed no later than payment of the issue fee.

Accordingly, Patentee's argument is untimely raised.

Pursuant to 37 C.F.R. 1.183, Patentee requests a waiver of the requirement of 37 C.F.R. 1.705(b) that the application for patent term adjustment be filed no later than payment of the issue fee.

A petition under 37 CFR 1.183 is appropriate for an extraordinary situation where justice requires waiver of the rules. Petitioner states that he did not timely file the application for patent term adjustment due to an unintentional administrative error. Rather than being an extraordinary situation where justice requires waiver of the rules, an administrative error could have been avoided with the reasonable exercise of due care.

Receipt of the $400 fee for the petition under 37 CFR 1.183 and the $200 fee for the application for patent term adjustment is acknowledged.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Paper No. 5

MILBANK, TWEED, HADLEY & MCCLOY LLP
1 CHASE MANHATTAN PLAZA
NEW YORK NY 10005-1413

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OCT 23 2003

OFFICE OF PETITIONS

In re Application of :
Kingham and Loucaides :
Application No. 10/313,525 : DECISION REFUSING STATUS
Filed: December 6, 2002 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 03287-04100 :

This is in response to the petition under 37 CFR 1.47(a), filed August 6, 2003. Applicants obtained a five-month extension of time to respond. Therefore, the petition is filed timely.

The petition is **dismissed**.

Applicants are given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on December 6, 2002, without an executed oath or declaration. Accordingly, on January 16, 2003, the Office mailed a "Notice to File Missing Parts of Application," requiring an executed oath or declaration and a surcharge for its late filing.

In response, on August 6, 2003, applicants filed the present petition, a request for a five-month extension of time, a declaration signed by inventor Kingham and Declarations of Facts of Frank A. Bruno and Andrew N. Cadel.

In the Declaration of Facts, Mr. Bruno states that on April 10, 2003, he sent a letter to Alex Loucaides at his last known address. A Royal Mail delivery confirmation document indicated that the letter was received by A. Loucaides on April 11, 2003, at 7:40 am. A copy of the letter and the confirmation document accompany the petition. Mr. Bruno further states that as of August 6, 2003, Mr. Loucaides has not returned to him a signed declaration or assignment.

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.

Applicants lack items (1) and (2) as set forth above. As to item (1), Mr. Burno states that he sent a letter to Mr. Loucaides at his last known address. A review of the letter indicates that Mr. Loucaides was presented with the declaration, power of attorney and assignment only as enclosures. Unless Mr. Loucaides was presented with a complete copy of the application papers, including the specification, claims and drawings, he could not attest that he has "reviewed and understands the application papers," and therefore, could not sign the declaration that he was given. Accordingly, applicants failed to show or provide proof that the inventor has refused to sign the declaration. See MPEP 409.03(d). Applicants must show that a complete copy of the application papers, including the specification, claims and drawings, was presented to Mr. Loucaides, but that he did not respond to the request that he sign the oath/declaration to show that the inventor has refused to join in the application.

As to item (2), applicants failed to submit an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64. The declaration does not identify Mr. Loucaides' residence, mailing address or country of citizenship. The Office notes that the oath or declaration must identify the country of citizenship, as well as "[t]he mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor. . . ." 37 CFR 1.63(c)(1). Accordingly, to correct the deficiencies, applicants must submit an oath or declaration in compliance with 37 CFR 1.63 and 1.67, which identifies the entire inventive entity, the correct mailing address and citizenship of each inventor, and is signed by Mr. Kingham on behalf of the nonsigning inventor, Mr. Loucaides.

The $130.00 petition fee will be charged to Deposit Account No. 13-3250, as authorized.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Christina Tartera Donnell, Senior Petitions Attorney:**

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

By FAX : (703) 308-6916
Attn: Office of Petitions
Facsmile transmissions will not be accepted beginning December 1, 2003.

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DW 03-04

Paper No. 8

MILBANK, TWEED, HADLEY & MCCLOY LLP
1 CHASE MANHATTAN PLAZA
NEW YORK NY 10005-1413

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MAR 2 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Kingham and Loucaides	:	DECISION ACCORDING STATUS
Application No. 10/313,525	:	UNDER 37 CFR 1.47(a)
Filed: 6 December, 2002	:	
Atty Docket No. 36287-04100	:	

This is in response to the papers filed on 12 March, 2004, which are treated as a renewed petition under 37 CFR 1.47(a).

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventors has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners have established, via the declaration of registered patent agent Frank A. Bruno, that a copy of the application was sent to the non-signing inventor, Alex Loucaides. However, the non-signing inventor did not return an executed declaration listing him as a joint inventor along with Ian Kingham.

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

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

After this decision is mailed, the application will be forwarded to Technology Center 2100 for examination in due course.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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DW 03-04

Alex Loucaides
49 Whitehill Avenue
Luton, Bedfordshire LU1 3SR
UNITED KINGDOM

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MAR 2 6 2004

OFFICE OF PETITIONS

In re Application of
Kingham and Loucaides
Application No. 10/313,525
Filed: 6 December, 2002
For: SYSTEM AND METHOD FOR COMMUNICATING DATA TO A PROCESS

Dear Mr. Loucaides:

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

MILBANK, TWEED, HADLEY & MCCLOY LLP
1 CHASE MANHATTAN PLAZA
NEW YORK NY 10005-1413

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Paper No. 16

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MAR 0 8 2004

OFFICE OF PETITIONS

ON PETITION

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

In re Application of
Seiichi Nakatani, et al.
Application No. 10/313,534
Filed December 4, 2002
Attorney Docket No. 10873.998USC1

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 20, 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 January 22, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

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

After the application is received in the Office of Petitions, it will be forwarded to Technology Center AU 1775 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
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Paper No. 7

KOESTNER BERTANI
18662 MacARTHUR BLVD
SUITE 400
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JUL 21 2003
OFFICE OF PETITIONS

In re Application of
Daniel R. Salmonsen et al
Application No. 10/313,536
Filed: December 5, 2002
Attorney Docket No. 1003.P004 US
(PA-1277)

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed by facsimile transmission on June 4, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on February 25, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

(1) the required reply which is met by the

notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been previously rescinded.

Pursuant to petitioner's authorization, Deposit Account No. 50-2240 was charged $1,300.00 for the petition to revive an unintentionally abandoned application (37 CFR 1.137(f)).

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

This application is being forwarded to Technology Center Art Unit 2611 for examination in due course.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 7

KOESTNER BERTANI LLP
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IRVINE, CA 92612

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AUG 06 2003

OFFICE OF PETITIONS

In re Application of Salmonsen et al. Application No. 10/313,538 Filed: December 5, 2002 Attorney Docket No. 1003.P008 US	DECISION GRANTING PETITION UNDER 37 CFR 1.137(f)

This is a decision on the petition under 37 C.F.R. 1.137(f), filed June 4, 2003.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country, or under a multinational international treaty, on February 25, 2003. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days.

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

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

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

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

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

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

The previous Request and Certification under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded.

The application file is being forwarded to Technology Center 2123 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM MI 48009

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OCT 16 2007

OFFICE OF PETITIONS

In re Application of :
Parsons, et al. :
Application No. 10/313,568 : ON PETITION
Filed: December 6, 2002 :
Attorney Docket No. 67,010-043/H2611-ED :
For: FUEL SYSTEM UTILIZING DUAL MIXING PUMP

This is a decision on the petition, filed March 30, 2007, under 37 CFR 1.137(b) to revive the above-identified application.

The above-identified application became abandoned for failure to timely submit a proper reply within one month or thirty days (whichever was longer) of the mailing of the October 11, 2006 Notification of Non-Compliant Appeal Brief(Notice). Applicants filed another non-compliant appeal brief and a one month extension of time on November 20, 2006. This application became abandoned on December 12, 2006.

Applicants have submitted an appeal brief and replacement drawings in reply to the October 11, 2006 Notice, a proper statement of the unintentional nature of the delay in responding to the October 11, 2006 Notice, and the $1,500.00 petition fee.

The petition is **GRANTED**.

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 $120.00 extension of time submitted with the petition on March 30, 2007 was submitted subsequent to the expiration of the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioners' deposit account.

After the mailing of this decision the application will be forwarded to Technology Center AU 3746 for consideration of the appeal brief and replacement drawings filed on March 30, 2007.

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

Shirene Willis Brantley

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

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COMMISSIONER FOR PATENTS
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Dykema Gossett PLLC
10 S. Wacker Drive
Suite 2300
Chicago, IL 60606

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SEP 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Bartholomew J. Cunningham, et al.	:	
Application No. 10/313,576	:	DECISION DISMISSING
Filed: December 9, 2002	:	PETITION
Attorney Docket No. 6544-1009	:	

This is a decision on the petition under 37 CFR 1.10(d), filed May 17, 2005, requesting that the above-identified application be accorded a filing date of December 6, 2002, rather than the presently accorded date of December 9, 2002.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely (see 37 CFR 1.181(f)). No extensions of time pursuant to the provisions of 37 CFR 1.136 are permitted. If reconsideration is not requested within the time period specified above, this application will be forwarded to the Publishing Division with the presently accorded filing date of December 9, 2002.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on December 6, 2002, pursuant to the requirements of 37 CFR 1.10. Petitioner has provided the following evidence: a copy of the application transmittal form, which contains Express Mail label number EL874023460US; a certificate of mailing under 37 CFR 1.10; a postcard receipt with a USPTO date stamp of December 9, 2002; a copy of a check dated December 6, 2002; a document from the U. S. Postal Service; and an affidavit from John W. Hayes, who "caused the application to be deposited with an employee of the United States Post Office in Chicago, Illinois." However, petitioner cannot locate the actual or a copy of the Express Mail label. Nevertheless, petitioner argues that the application should be entitled to a filing date of December 6, 2002, based on the evidence submitted.

Paragraph (a) of 37 CFR 1.10 states that:

> "Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See § 1.6(a).

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director 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 Director, 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.

The petition lacks items (1) and (3) noted above.

In regard to item (1):

As noted above, the petition is to be filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry. There is nothing

in the file record that shows applicant attempted to correct the filing date prior to filing the present petition. According to Mr. Hayes' statement, he failed to notice that the filing date was incorrect upon receipt of the return postcard. A review of the record shows that an official filing receipt was mailed to Mr. Hayes, the attorney of record at the time the application was filed, on January 21, 2003 and a second official filing receipt was mailed April 14, 2003. Both filing receipts indicated the filing date of the application was December 9, 2002. Additionally, applicant submitted numerous correspondences to the Office with each document noting the filing date as December 9, 2002. Why did it take over two (2) years to discover that the filing date of the application was incorrect?

In regard to item (3):

The evidence presented has been carefully considered but is not considered persuasive that the application was deposited as Express Mail on December 6, 2002. The Certificate of Express Mail under 37 CFR 1.10 does not, by itself, sufficiently establish the date mailing. Also, the application transmittal letter and the copy of the check dated December 6, 2002, do not adequately show that the application was deposited as Express Mail on the asserted date. Further, the copy of the letter from the USPS shows when the Office received the package, which corroborates the date on the postcard receipt, but it does not show the date the package was allegedly deposited at the USPS. Petitioner should obtain information from the USPS showing the date the package was deposited was December 6, 2002. Moreover, the Office cannot rely solely on the affidavit of Mr. Hayes since it was created more than one business day after the deposit of the application. Unless petitioner can present a copy of Express Mail label number EL874023460US with a "date-in" of December 6, 2002; an "Express Mail: Corporate Account Mailing Statement showing the Express Mail number and the date of deposit as December 6, 2002; or a log book showing December 6, 2002 as the date of the deposit, the Express Mail number, attorney docket number or some other file identification number, the current filing date of the application will be retained.

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

By Mail:	Mail Stop PETITION Commissioner for Patents P. O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300 Attn: Office of Petitions
By hand:	U. S. Patent and Trademark Office Customer Service Window, Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314

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

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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DAVID AND RAYMOND PATENT FIRM
108 N. YNEZ AVE., SUITE 128
MONTEREY PARK CA 91754

COPY MAILED

JUN 04 2009

OFFICE OF PETITIONS

Patent No. 6,860,497	:	
Application No. 10/313,584	:	
Filed: December 9, 2002	:	ON PETITION
Issued: March 1, 2005	:	
Attorney Docket No. USP1927A-WII	:	

This is a decision on the petition under 37 CFR 1.378(c), filed April 3, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued March 1, 2005. The last day of the grace period for paying the 3.5-year maintenance fee was march 1, 2009. Therefore, since this petition was 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).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

PET. DEC.

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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APR 7 2004

PAPER NO. VP

In re Application of
Milford R. Murphy
Serial Number: 10/313,590
Filed: December 12, 2003
For: GUTTER LEAF BLOWER

PETITION UNDER
M.P.E.P.708.02 IV

This is in response to the petition filed December 6, 2003, requesting that the above-identified application be granted Special Status under Section 708.02 IV of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 IV of the MPEP is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C. Knode

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

Milford R. Murphy
1101 Lynda Lane
Arlington TX 76013

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MAY 22 2009
DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Charles W. Gray
TOWNSEND and TOWNSEND and CREW LLP.
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834

In re Application of:
Kazuhiro KUSAMA et al.
Application No. 10/313,599
Filed: December 5, 2002
For: COMMUNICATION PATH MONITORING SYSTEM

DECISION GRANTING PETITION TO RESET PERIOD FOR REPLY

This is a decision on the petition filed on 17 April 2009, requesting that the shortened statutory period for reply set forth in the Office communication mailed on 3 December 2008 be restarted so that no extension of time fees are necessary.

In the absence of any apparent irregularity associated with the mailing of an Office communication, the Office presumes that the communication was properly mailed to the address of record. This presumption may be overcome by showing that the Office communication was not received.

The relevant portion of MPEP § 711.03(c) states:

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that **a search of the file jacket and docket records indicates that the Office communication was not received**. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.
> 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.

In support of the petition, the petitioner stated that the Office Action mailed 3 December 2008 was never received by applicants and stated applicant's representative only discovered the Office

Action during a periodic review of the PAIR system on 13 April 2009. The petitioner supplied a copy of docket record (Exhibit A) showing that the Office Action was never received by applicant's representative. The docket record shows no entry reflecting receipt of the Office Action.
The petition was filed within two weeks of receipt of the Office communication. A substantial portion of the set reply period had elapsed on the date of receipt.

The Petition has not met the criteria of set out in MPEP § 711.03(c) for establishing failure to receive the Office Action because Petitioner fails to provide 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 Petitioner fails to provide as part of the record showing non-receipt of the Office action the **master docket for the firm** or a state that **no such master docket exists**.

For the above-stated reasons, the petition is **DENIED**.

Any inquiry concerning this decision should be directed to the undersigned whose telephone is (571) 272-3088.

/Hassan Kizou/
Hassan Kizou, WQAS
Technology Center 2400

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.
10/313,599	12/05/2002	Kazuhiro Kusama	16869P-064600US	7599

20350 7590 06/16/2009
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER
CHAN, SAI MING

ART UNIT	PAPER NUMBER
2416	

MAIL DATE	DELIVERY MODE
06/16/2009	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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MAIL

JUN 16 2009

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Charles W. Gray
TOWNSEND and TOWNSEND and CREW LLP.
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834

In re Application of:
Kazuhiro KUSAMA et al.
Application No. 10/313,599
Filed: December 5, 2002
For: COMMUNICATION PATH MONITORING SYSTEM

DECISION GRANTING PETITION TO RESET PERIOD FOR REPLY

This is a decision on the petition filed on 29 May 2009, requesting that the shortened statutory period for reply set forth in the Office communication mailed on 3 December 2008 be restarted so that no extension of time fees are necessary.

In the absence of any apparent irregularity associated with the mailing of an Office communication, the Office presumes that the communication was properly mailed to the address of record. This presumption may be overcome by showing that the Office communication was not received.

The relevant portion of MPEP § 711.03(c) states:

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. 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.

In support of the petition, the petitioner stated that the Office Action mailed 3 December 2008 was never received by applicants and stated applicant's representative only discovered the Office Action during a periodic review of the PAIR system on 13 April

2009. The petitioner supplied a copy of docket record (Exhibit A) showing that the Office Action was never received by applicant's representative. The docket record shows no entry reflecting receipt of the Office Action. The petition was filed within two weeks of receipt of the Office communication. A substantial portion of the set reply period had elapsed on the date of receipt. Petitioner provided 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 Petitioner has stated that no such master docket exists.

The Petition has met the criteria of set out in MPEP § 711.03(c) for establishing failure to receive the Office Action.

The petition is **GRANTED**. The period for response for Office action mailed 3 December 2008 is hereby reset to begin 13 April 2009. As such the response filed 3 June 2009 does not require the paid 3 month of extension of time and this payment ($1110) is considered in error and is hereby refunded.

The Office communication will be remailed and the shortened statutory period that was originally set forth in the Office action shall be restarted to run from 13 April 2009.

Any inquiry concerning this decision should be directed to the undersigned whose telephone is (571) 272-3088.

/Hassan Kizou/
Hassan Kizou, WQAS
Technology Center 2400

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JJGJr: 01-06

Paper No: __

KOLISCH HARTWELL PC
520 SW YAMHILL STREET
SUITE 200
PORTLAND, OR 97204

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FEB 0 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Gribble, et al.	:	
Application No. 10/313,606	:	DECISION ON PETITION
Filed: 5 December, 2002	:	
Attorney Docket No. FVG 302	:	

This is a decision on the petition filed on 2 December, 2005, to withdraw the holding of abandonment and considered under 37 C.F.R. §1.181.

The petition is **GRANTED**.

BACKGROUND

A review of the application file reveals that:

- Petitioner appeared to have failed to reply timely and properly to the final Office action mailed on 12 April, 2005, with reply due, absent extension of time, on or before 12 July, 2005;
- a telephone conference/interview was held on 9 August (Summary mailed on 15 August), 2005;
- the application went abandoned after midnight 12 July, 2005;
- the Office mailed a Notice of Abandonment on 16 November, 2005;
- on 2 December, 2005, Petitioner filed the instant petition, what are averred to be true copies of a Request for Continued Examination (RCE) filed (over a 12 October, 2005,

Certificate of Mailing) under 37 C.F.R. §1.114 with fee and an amendment as a submission, a request and fee for a three- (3-) month extension of time, a date-stamp ("OCT 14 2005") receipt card evidencing Office receipt of the foregoing, and a statement by Petitioner Charles H. DeVoe (Reg. No. 37,305) setting forth the background described above.

It is noted that:

- the RCE, extension of time and fee transmittal forms and the date-stamped receipt card submitted by Petitioner on 14 October, 2005, all bear the erroneous application number 10/313,616, rather than 10/313,606; and

- in an apparent oversight, Petitioner did not sign the Certificate of Mailing at the bottom of the RCE, however, it appears that he did sign the Certificate of Mailing on the Transmittal form, which itemizes the RCE, *inter alia*, as he did the Certificate of Mailing on the Amendment (styled as: "Amendment and Request for Continued Examination") that is the submission accompanying the RCE.)

The file now reflects receipt of the request (with fee) for extension of time and the RCE, fee and submission.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

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

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

The courts have outlined the construct for the granting of relief as to the withdrawal of the holding of abandonment. (See: *Delgar v. Schulyer.*[7])

CONCLUSION

Because Petitioner has satisfied the *Delgar* requirements, the petition under 37 C.F.R. §1.181 is **granted** and petition fees are waived.

The instant application 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

---

[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] *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971).

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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JUN 19 2006
OFFICE OF PETITIONS

In re Application of	:	
Thomas et al.	:	DECISION ON PETITION
Application No. 10/313,616	:	TO WITHDRAW
Filed: December 6, 2002	:	FROM RECORD
Attorney Docket No. 123.007US1	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 28, 2006.

The request is **NOT APPROVED.**

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 another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because the reason provided for the request does not fall into one of the proper categories listed under 37 CFR 10.40.

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

There is an outstanding Office action mailed February 24, 2006 that requires a reply.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206. All other inquiries should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

Cc:

DANN DORFMAN HERRELL & SKILLMAN
1601 MARKET STREET, SUITE 2400
PHILADELPHIA, PA 19103-2307

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

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JAN 24 2007

OFFICE OF PETITIONS

In re Application of	:	
Thomas et al.	:	DECISION ON PETITION
Application No. 10/313,616	:	TO WITHDRAW
Filed: December 6, 2002	:	FROM RECORD
Attorney Docket No. 340.008US1	:	

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 20, 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 Bradley A. Forrest on behalf of all attorneys of record who are associated with Customer Number 21186. All attorneys/agents associated with this Customer Number have been withdrawn. Applicants are 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 applicants

There is an outstanding Office action mailed October 17, 2006, that requires a reply.

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

Liana Walsh
Petitions Examiner
Office of Petitions

cc: ALEX W. THOMAS
901 WELLINGTON STREET
LONDON, ON N6A 3S8
CANADA

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1601 MARKET STREET
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PHILADELPHIA, PA 19103-2307

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OFFICE OF PETITIONS

In re Application of	:	
Thomas et al.	:	DECISION ON PETITION
Application No. 10/313,616	:	TO WITHDRAW
Filed: December 6, 2002	:	FROM RECORD
Attorney Docket No. 340.008US1	:	

CORRECTED DECISION

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 20, 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 Bradley A. Forrest on behalf of all attorneys of record who are associated with Customer Number 21186. All attorneys/agents associated with this Customer Number have been withdrawn. Applicants are 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 applicants

There is an outstanding Office action mailed October 17, 2006, that requires a reply.

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

Liana Walsh
Petitions Examiner
Office of Petitions

cc: ALEX W. THOMAS
901 WELLINGTON STREET
LONDON, ON N6A 3S8 CANADA

DANN DORFMAN HERRELL AND SKILLMAN, P.C.
1601 MARKET STREET
SUITE 2400
PHILADELPHIA, PA 19103-2307

11 JUN 2003

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Brooks & Kushman P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075

In re Application of OTTE	:	
U.S. Application No.: 10/313,618	:	
PCT Application No.: PCT/EP01/06217	:	
Int. Filing Date: 01 June 2001	:	DECISION
Priority Date Claimed: 06 June 2000	:	
Attorney Docket No.: KOA 0210 PUS	:	
For: METHOD FOR DETERMINING THE	:	
ROTATIONAL POSITION OF THE DRIVE	:	
SHAFT OF A DIRECT CURRENT MOTOR	:	

This is in response to applicant's "Petition for Revival of a Patent Application Abandoned Unintentionally Under 37 C.F.R. § 1.137(b)" filed 06 December 2002.

BACKGROUND

On 01 June 2001, applicant filed international application PCT/EP01/06217, which claimed priority of an earlier Germany application filed 06 June 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 13 December 2001. The twenty-month period for paying the basic national fee in the United States expired on 06 February 2002.

International application PCT/EP01/06217 became abandoned as to the United States for failure to timely pay the requisite basic national fee under 35 U.S.C. 371(c).

On 06 December 2002, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable

petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), the filing of the present continuation application is accepted as the appropriate response under 37 CFR 1.137(b).

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), the petition states, "The entire delay in filing the U.S. national continuation application under 35 U.S.C. § 111(a) filed herewith until the filing of this petition was unintentional." This statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

International application PCT/EP01/06217 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present U.S. continuation application number 10/313,618.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision and will thereafter be forwarded to the Office of Initial Patent Examination for further processing and review as an application filed under 35 U.S.C. 111.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

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FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON TX 77010-3095

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JUN 12 2006

OFFICE OF PETITIONS

In re Application of :
Schwartz, al. :
Application No. 10/313,641 : ON PETITION
Filed: 6 December, 2002 :
Attorney Docket No. HO-P02351US2 :

This is a decision on a petition filed on 1 December, 2005, under 37 C.F.R. §1.137(b).

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

BACKGROUND

The record indicates:

- Petitioner failed to reply timely and properly to the final Office action mailed on 12 April, 2005, with reply due absent extension of time on or before Monday, 13 July, 2005;
- the application went abandoned by operation of law after midnight 12 July, 2005;
- on 13 October, 2005, Petitioner filed an after-final amendment–which is not of right and not a proper reply[1] to a final Office action and was not entered, and to which the Examiner mailed an Advisory Action on 16 November, 2005;

[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).)

- it does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed;
- on 1 December, 2005, Petitioner filed the instant petition, fee, reply in the form of a request for continued examination under 37 C.F.R. §1.114 with fee and an admendment as a submission, and made a statement of unintentional delay–thus, Petitioner appears to have satisfied the regulatory requirements under 37 C.F.R. §1.137(b).

STATUTES, REGULATIONS AND ANALYSIS

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

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

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

---

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

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

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

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

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

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee.

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

CONCLUSION

Because Petitioner appears to have satisfied the regulatory requirements, regulation, the petition under 37 C.F.R. §1.137(b) is **granted**.

The application is released to the Examiner in Technology Center 1600 for further processing in due course.

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

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

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

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Paper No. 6

POPP ENGINEERING, INC.
P.O. BOX 1871
2710 FORD ST
AMES, IA 50010

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MAR 1 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Jonathan Carl Popp	:	
Application No. 10/313,653	:	ON PETITION
Filed: December 9, 2002	:	
Attorney Docket No.	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed January 17, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 18, 2003.

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

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

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

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United States Patent and Trademark Office
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PAUL PIEPER
P.O. BOX 836
PETERSBURG, AK 99833

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JAN 2 5 2006

OFFICE OF PETITIONS

In re Application of :
Paul S. Pieper :
Application No. 10/313,673 : ON PETITION
Filed: November 27, 2002 :
For: Finger supported food cutting surface :

This is a decision on the petition under 37 CFR 1.137(b), filed November 22, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed July 23, 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 October 24, 2004.

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

As to item (1), the required fee of $250 for Notice of appeal has not been paid. Accordingly, a consideration on the merits of the present petition cannot be made until the $250.00 fee is submitted to the Office.

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

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

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

By fax: (571) 273-8300

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

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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PAUL PIEPER
PO BOX 836
PETERSBURG, AK 99833

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AUG 23 2006
OFFICE OF PETITIONS

In re Application of	:	
Paul S. Pieper	:	DECISION
Application No. 10/313,673	:	ON PETITION
Filed: November 2, 2002	:	
For: FINGER SUPPORTED FOOD	:	
CUTTING SURFACE	:	

This is a decision in response to the petition under 37 CFR 1.137(b), filed March 17, 200, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply to the final Office action, mailed July 23, 2004. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). Applicant filed a Notice of Appeal on February 18, 2005 and an Appeal Brief on April 22, 2005; however, the application became abandoned on October 24, 2004, prior to the filing of the Notice of Appeal and Appeal Brief. Revival of the application was required.

Applicant filed a petition to revive the application on November 22, 2005. The required reply was the Notice of Appeal and subsequent Appeal Brief; however, a review of Office records revealed that Applicant had submitted $165.00 as the fee for filing the Notice of Appeal. The fee for filing a Notice of Appeal is $250.00. Accordingly, the petition was dismissed. Applicant was required to file the appropriate fee for filing the Notice of Appeal.

With the instant petition, Applicant has filed the appropriate fee for the Notice of Appeal. Office records also indicate that the $165.00 paid previously has been refunded to Applicant.

This application is being returned to Technology Center 3724 for processing of the Notice of Appeal and Appeal Brief in due course.

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

Derek L. Woods
Attorney
Office of Petitions

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JACQUES M. DULIN, ESQ
INNOVATION LAW GROUP, LTD
224 W. WASHINGTON STREET
NETPORT CENTER, SUITE 201
SEQUIM, WA 98382-3338

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AUG 1 0 2004

OFFICE OF PETITIONS

In re Application of :
Milo R. Novotny :
Application No.10/313,679 : ON PETITION
Filed: December 6, 2002 :
Attorney Docket No. 7139-001 US :

This is a decision on the petition filed May 10, 2004, requesting clarification and correction of the filing date for the above-cited application. The petition will be treated under 37 CFR 1.182.

The petition is **granted**.

On December 6, 2002, the above-identified application was filed. After filing, petitioner discovered that page 5 of the specification was omitted from the original disclosure; petitioner then filed page 5 of the specification on December 9, 2002. The filing date for the application was then changed from December 6, 2002, to December 9, 2002, accordingly. Petitioner is unsure which filing date is proper, but appears to be amenable to either.

If the Office of Initial Patent Examination had been left to discover that page 5 of the specification was omitted from the original disclosure, a Notice of Omitted Items would have been mailed alerting applicant that a filing date of December 6, 2002, was accorded the application, but that page 5 of the specification was not found with the application papers. The notice would have given applicant two months to either: file a petition arguing that page 5 was filed with the original disclosure, file the omitted items along with a supplemental oath or declaration and a petition to accept the later filing date, or take no action and accept the filing date accorded with only the papers found on that date as part of the original disclosure. A review of the application file revealed that page 5 of the specification did not accompany the original application papers, and that page 5 was filed on December 9, 2002, but was not accompanied by a supplemental oath or declaration. It is further noted that petitioner admits that page 5 of the specification was inadvertently omitted from the original disclosure.

Given the circumstances, it appears that the most direct course of action for correcting this application is to accord the application a filing date of December 6, 2002, using only those papers filed on that date. After processing in the Office of Initial Patent Examination, the application will be directed to Technology Center 3700 where page 5 of the specification that was filed on December 9, 2002, will be considered as a preliminary amendment.

Deposit account 04-1699 will be charged $130.00 for the instant petition fee.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 6,2 002, using 19 pages of the specification filed on that date. A corrected filing receipt will also be issued.

Any inquiries related to this decision should be directed to the undersigned at (703)305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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NOV 26 2004

In re Application of	:	
Milo R. Novotny	:	
Serial No. 10/313,679	:	DECISION ON PETITION
Filed: December 6, 2002	:	TO MAKE SPECIAL
For: CONSTANT FORCE GOLF SWING: TRAINING DEVICE, METHOD OF: SWING PLANE TRAINING AND : INTERNET OPERATION	:	

Applicant's petition, filed September 9, 2004, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

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(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Jacques M. Dulin, Esq.
Innovation Law Group
271 S. 7th Avenue, Suite 24
Sequim, WA 98392-3652

UNITED STATES PA. .NT AND TRADEMARK OFFICE

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JACQUES M. DULIN, ESQ
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224 W. WASHINGTON STREET
NETPORT CENTER, SUITE 201
SEQUIM, WA 98382-3338

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OFFICE OF PETITIONS

In re Application of	:	
Milo R. Novotny	:	
Application No.10/313,679	:	ON PETITION
Filed. December 6, 2002	:	
Attorney Docket No. 7139-001 US	:	

This is a decision on the petition filed May 10, 2004, requesting clarification and correction of the filing date for the above-cited application. The petition will be treated under 37 CFR 1.182.

The petition is **granted**.

On December 6, 2002, the above-identified application was filed. After filing, petitioner discovered that page 5 of the specification was omitted from the original disclosure; petitioner then filed page 5 of the specification on December 9, 2002. The filing date for the application was then changed from December 6, 2002, to December 9, 2002, accordingly. Petitioner is unsure which filing date is proper, but appears to be amenable to either.

If the Office of Initial Patent Examination had been left to discover that page 5 of the specification was omitted from the original disclosure, a Notice of Omitted Items would have been mailed alerting applicant that a filing date of December 6, 2002, was accorded the application, but that page 5 of the specification was not found with the application papers. The notice would have given applicant two months to either: file a petition arguing that page 5 was filed with the original disclosure, file the omitted items along with a supplemental oath or declaration and a petition to accept the later filing date, or take no action and accept the filing date accorded with only the papers found on that date as part of the original disclosure. A review of the application file revealed that page 5 of the specification did not accompany the original application papers, and that page 5 was filed on December 9, 2002, but was not accompanied by a supplemental oath or declaration. It is further noted that petitioner admits that page 5 of the specification was inadvertently omitted from the original disclosure.

Given the circumstances, it appears that the most direct course of action for correcting this application is to accord the application a filing date of December 6, 2002, using only those papers filed on that date. After processing in the Office of Initial Patent Examination, the application will be directed to Technology Center 3700 where page 5 of the specification that was filed on December 9, 2002, will be considered as a preliminary amendment.

Deposit account 04-1699 will be charged $130.00 for the instant petition fee.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 6,2 002, using 19 pages of the specification filed on that date. A corrected filing receipt will also be issued.

Any inquiries related to this decision should be directed to the undersigned at (703)305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

on which-handed he/she is, and the amount of force is selected for the age, sex or level of skill of the golfer. The back swing and down swing may be practiced sequentially, and the follow through separately.

The swing training device can be used indoor or out, in the home, garage, back yard, in a training facility such as an indoor golf training facility, an outdoor venue such as a driving range or adjacent a golf pro shop or golf pro training area or camp. In one embodiment the CFU is pivotally anchored to a wall with a plate. In another, the CFU can be hung from a door top by means of an inverted U-Shaped bracket or set of clamps. In still another embodiment the CFU can be anchored to a free-standing pole, such a pipe anchored in the ground, either permanently or by being removably mountable in a sleeve inset in the ground, or in a sleeve secured to a base plate anchored to the ground or other flooring surface such as asphalt, concrete or wood.

In the Internet-base business method aspect of the invention, one or more indoor or outdoor, anchored units or free standing pole units, can be coin or credit-card operated, with a local or remotely located programmable CPU to enable operation, including authorization for access and use, and tracking use by subscribers or walk-in trade for charge or billing purposes, and remittance of rents, royalties, commissions, etc., and for assessing use traffic history and profitability, among other management analytic tools. In another aspect, kiosks may be located at driving ranges and golf courses that are either attendant-operated or golf pro-operated, or are automated and linked to local (in-kiosk or at the place of business) computer controls and displays, or may be remotely linked by LAN, WAN or Internet to a remotely-located control and monitoring center. The links may be any conventional link: e.g., by telephone lines (local or long lines); dedicated DSL, SDSL, ADSL, ISDN, T1, Cable, etc.; or by tower-enabled or satellite Wireless or Internet linkage.

A number of different types of CFUs may be employed, including a weight system that can be raised/lowered or a constant force spring arrangement, preferably, a counter-wound ribbon spring system. The weight system may be a direct lift of a weight constrained to slide generally vertically in, on or around a guide rod, bar, pipe, tube or track, and thence over a pulley free to swivel in at least two axes, or a double pulley system. Counter-wound spring system may include a wide variety of spring winding arrangements, from single to multiple independent springs, or for multi-layered springs. One skilled in the art can select the spring force suitable for the particular application and cycle life desired. Typically, the spring force is 4 - 8 lbs for younger golfers, and 8 - 12 lbs for women, and 12 – 20 lbs for male golfers. In one preferred arrangement, multiple CFU spring systems are provided in a single housing so the user can select the constant force desired, including linking two different force systems to a single

PAGE 5/5 * RCVD AT 4/4/2005 6:03:02 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/2 * DNIS:8729306 * CSID:3606817315 * DURATION (mm-ss):01-32

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CHRISTENSEN O'CONNOR JOHNSON KINDNESS PLLC
1420 FIFTH AVENUE, SUITE 2800
SEATTLE, WA 98101-2347

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MAR 3 1 2004

OFFICE OF PETITIONS

In re Application of :
Robert Burchinal :
Application No. 10/313,685 :
Filed: December 6, 2002 :
Attorney Docket No. VWNI119817 :

ON PETITION

This is a decision on the petition filed by facsimile transmission on March 18, 2004 to delete the assignment data on Form PTOL-85(b).

The petition is granted.

No assignment data will appear on the front page of the patent if this can be accomplished without substantial disruption to the issue process. However, if the printing of the patent has progressed to the point where the patent cannot be printed to exclude the assignment data, petitioner can request a Certificate of Correction pursuant to 37 CFR 1.323 and pay the $100 fee therefor.

This matter is being referred to Publishing Division.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-8680.

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

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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SEP 2 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Kramadhati Ravi	:	
Application No. 10/313,686	:	DECISION GRANTING PETITION
Filed: December 5, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 42P15482	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 19, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 27, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 3693 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the information disclosure statement filed February 29, 2008.

April M. Wise
Petitions Examiner
Office of Petitions

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

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

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OFFICE OF PETITIONS

In re Application of
Radha Sen
Application No. 10/313,689
Filed: December 4, 2002
Attorney Docket No. 100200731-1

ON PETITION

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

It does not appear that the instant petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of David W. Collins 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. However, if Mr. Collins desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Collins, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 8, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

The application is being referred to Technology Center AU 2853 for further processing of the request for continued examination under 37 CFR 1.114 filed January 14, 2005.

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

cc: David W. Collins
75 West Calle de las Tiendas
Suite 125B
Green Valley, AZ 85614

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 : January 21, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Radha Sen
Application No. : 10/313,689
Filed : December 4, 2002

The above-identified application has been assigned Patent No. 6,848,778 and an issue date of February 1, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of February 1, 2005:

> "All reference to Patent No. 6,848,778 to RADHA SEN of CALIFORNIA for SEALABLE TOPCOAT FOR POROUS MEDIA appearing in the Official Gazette of February 1, 2005, should be deleted since no patent was granted."

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

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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Paper No. 7

COLIN M. RAUFER
RAYTHEON COMPANY
P.O. BOX 902 (E1/E150)
EL SEGUNDO, CA 90245-0902

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MAR 1 6 2004
OFFICE OF PETITIONS

In re Application of
Quenten E. Duden, et al.
Application No. 10/313,713
Filed: December 4, 2002
Attorney Docket No. PD-01W161

This is a decision on the petition under 37 CFR 1.137(b), filed March 1, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed August 6, 2003, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 8, 2003.

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

The application file is being forwarded to Technology Center 3600, Art Unit 3644 for further processing.

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

Retta Williams

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

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APR 1 8 2005

Mailed:

GAC
Jan 13, 2005

In re Application of SHAN et al.
Serial No.: 10/313720
Filed: December 6, 2002

DECISION ON PETITION UNDER *37 CFR 1.48(a)*

Title: Mesoporous Material with Active Metals

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed Nov. 20,2003 to correct inventorship under 37 CFR 1.48(a) by adding the names of Mohamed Hamdy to the list of inventors of the instant application.

It is noted that the applicant has met the requirements of 37 C.F.R. § 1.48(a) by (1) submitting a request to correct the inventorship that sets forth the desired inventorship change; (2) providing a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) providing a declaration of the actual inventors as required by 37 C.F.R. § 1.63; (4) providing the processing fee set forth in 1.17(i); and, (5) providing the written consent of the assignee.

The request is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

Glenn A Caldarola
Supervisory Patent Examiner
Art Unit 1764
Technology Center 1700

Dilworth & Barrese, LLP.
333 Earle Ovington Blvd.
Uniondale, NY 11553
Tel: (516) 228-8484
Fax: (516) 228-8516

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.
10/313,724	12/06/2002	Aziz Mohammad Ahsan	2002-223	8515

33217 7590 08/23/2005
AHSAN & ASSOCIATES
P.O. BOX 251
HOPEWELL JUNCTION, NY 12533

EXAMINER
ALAVI, ALI

ART UNIT	PAPER NUMBER
2875	

DATE MAILED: 08/23/2005

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Paper No. 08172005

AHSAN & ASSOCIATES
P.O. BOX 251
HOPEWELL JUNCTION NY 12533

AUG 2 3 2005

In re Application of AHSAN et al	:	
Application No.: 10/313,724	:	**WITHDRAWAL FROM ISSUE**
Filed: December 6, 2002	:	*37 CFR §1.313*
Title: STAR AND CRESCENT STRUCTURE AND METHOD THEREOF	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to unpatentability of one or more claims. See 37 C.F.R. §1.313(b)(3).

The above-identified application is hereby withdrawn from issue.

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

Telephone inquiries should be directed Gregory Toatley, Supervisory Patent Examiner, at (571) 272-2059.

The examiner will notify applicant of the new status of this application in an Office action to be issued promptly.

Janice A. Falcone

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DILLON & YUDELL LLP
8911 N CAPITAL OF TEXAS HWY
SUITE 2110
AUSTIN TX 78759

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JUN 26 2007

OFFICE OF PETITIONS

In re Application of	:	
Baffes, et al.	:	
Application No. 10/313,728	:	ON PETITION
Filed: December 5, 2002	:	
Docket No. AUS920020251US1	:	

This is a decision on the petition to revive under 37 CFR 1.137(a), filed June 15, 2007.

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. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed May 16, 2006. This Office action set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the application became abandoned on August 17, 2006. A Notice of Abandonment was mailed on May 31, 2007.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(l); and (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. The instant petition lacks item (3).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable: "The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."[1]

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, however, does not constitute "unavoidable" delay.[2]

With regards to item (3), petitioner states that he did not receive the May 16, 2006 Office action. In support thereof, petitioner has included a declaration of docket administrator Vicky Filipowski, stating that the Office action was not received.

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the **docket record** where the nonreceived Office action would have been entered had it been received and docketed.[3] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had

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[1] In re Mattulath, 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 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[2] See Haines, 673 F. Supp. at 317, 5 U.S.P.Q. 2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

[3] See MPEP 711.03(c)(II).

it been received and docketed."[4] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[5]

Petitioner has not submitted a copy of a docket report evidencing non-receipt of May 16, 2006 Office action.

Alternative Venue and Other Matters:

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. 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 37 CFR 1.17(m), currently $1500; 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.

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 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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[4] MPEP 711.03(c)(II) (emphasis added).

[5] Id.

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 06 2007

OFFICE OF PETITIONS

In re Application of	:	
Baffes, et al.	:	
Application No. 10/313,728	:	ON PETITION
Filed: December 5, 2002	:	
Docket No. AUS920020251US1	:	

This is a decision on the renewed petition to revive under 37 CFR 1.137(a), filed July 3, 2007.

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. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed May 16, 2006. This Office action set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the application became abandoned on August 17, 2006. A Notice of Abandonment was mailed on May 31, 2007. Applicants filed a petition to revive under 37 CFR 1.137(a) on June 15, 2007. However, the petition was dismissed in a decision mailed on June 26, 2007. The decision explained that applicants didn't submit a copy of a docket report evidencing non-rceipt of the May 16, 2006 Office action.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(l); and (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. The instant petition lacks item (3).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable: "The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."[1]

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, however, does not constitute "unavoidable" delay.[2]

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the **docket record** where the nonreceived Office action would have been entered had it been received and docketed.[3] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[4] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing all replies docketed for a date three months from the mail date of the nonreceived Office action

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[1] In re Mattulath, 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 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[2] See Haines, 673 F. Supp. at 317, 5 U.S.P.Q. 2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

[3] See MPEP 711.03(c)(II).

[4] MPEP 711.03(c)(II) (emphasis added).

must be submitted..."[5]

Here, petitioner has only submitted a one page print-out containing the prosecution history of the instant application. This is not a proper docket record as set forth above. To establish non-receipt of the May 16, 2006 Office action, petitioner needs to submit a docket record showing all replies docketed for the date of August 16, 2006.

Alternative Venue and Other Matters:

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. 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 37 CFR 1.17(m), currently $1500; 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.

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 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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[5] Id.

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUITE 2110
AUSTIN TX 78759

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SEP 28 2007

OFFICE OF PETITIONS

In re Application of	:	
Baffes, et al.	:	
Application No. 10/313,728	:	ON PETITION
Filed: December 5, 2002	:	
Docket No. AUS920020251US1	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed September 11, 2007.

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

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed May 16, 2006. This Office action set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the application became abandoned on August 17, 2006. A Notice of Abandonment was mailed on May 31, 2007. Applicants filed a petition to revive under 37 CFR 1.137(a) on June 15, 2007. However, the petition was dismissed in a decision mailed on June 26, 2007. The decision explained that applicants didn't submit a copy of a docket report evidencing non-receipt of the May 16, 2006 Office action. Applicants filed a renewed petition on July 3, 2007. The petition was again dismissed in a decision mailed on August 6, 2007.

With the instant petition, petitioner paid the petition fee and made the proper statement of unintentional delay. The required reply in the form of an Amendment was previously filed on June 15, 2007.

The matter is being forwarded to Group Art Unit 2136 for consideration of the Amendment filed June 15, 2007.

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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Alexandria, VA 22313-1450
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SAMUEL A KASSATLY LAW OFFICE
20690 VIEW OAKS WAY
SAN JOSE CA 95120

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SEP 28 2007

OFFICE OF PETITIONS

In re Application of	:	
Boss, et al.	:	
Application No. 10/313,731	:	ON PETITION
Filed: December 6, 2002	:	
Attorney Docket No. YOR920020219US1	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed March 31, 2007.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the non-final Office action, mailed July 3, 2006. This Office action set a shortened statutory period for reply of three (3) months. No response having been received, the application became abandoned on October 4, 2006. The mailing of this decision precedes the mailing of a Notice of Abandonment.

It is obvious from reviewing the file that the Office action was mailed to the incorrect address. The Office action should have been addressed to the address set forth in the Change of Correspondence Address, filed on April 3, 2006.

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

The matter is being forwarded to Group Art Unit 2151 for re-mailing of the July 3, 2006 Office action to the above address of record, setting a new period for reply.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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PARSONS HSUE & DE RUNTZ
655 MONTGOMERY STREET
SUITE 1800
SAN FRANCISCO, CA 94111

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FEB 01 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Chi-Ming Wang et al :
Application No. 10/313,738 :
Filed: December 6, 2002 :
Attorney Docket No. 20937-029400US :

This is a decision on the petition under 37 CFR 1.313(c), filed January 31, 2005, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 27, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2818 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 7

KOESTNER BERTANI LLP
18662 MACARTHUR BLVD
SUITE 400
IRVINE CA 92612

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NOV 03 2003

OFFICE OF PETITIONS

In re Application of SALMONSEN et al. Application No. 10/313,743 Filed: December 5, 2002 Attorney Docket No. 1003.P007 US	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed June 4, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the present nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of an application filed in an 18 month publication country on February 25, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

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

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

The previous Request and Certification under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded. A corrected filing receipt, which sets forth the projected publication date of March 11, 2004, accompanies this decision on petition. The $1,300.00 petition fee will be charged to Deposit Account No. 50-2240, as authorized.

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

Any inquiries concerning this decision may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
One Financial Center
BOSTON, MA 02111

Mail Date: 04/21/2010

Applicant	: David W.C. MacMillan	: DECISION ON REQUEST FOR
Patent Number	: 7592463	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/313,744	: 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 **1057** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

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AUG 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Abhay Arvind Joshi et al	:	
Application No. 10/313,750	:	ON PETITION
Filed: December 5, 2002	:	
Attorney Docket No. 020765	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 23, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 13, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 14, 2006.

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

This matter is being referred to Technology Center AU 2617 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 06/01/2010

Applicant	: Abhay Arvind Joshi	: DECISION ON REQUEST FOR
Patent Number	: 7623861	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/313,750	: 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 **445** 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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P.O. Box 1450
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FROM DIRECTORS OFFICE

MAR 24 2005

TECHNOLOGY CENTER 3600

Gerald Altman
6 Beacon Street, Suite 600
Boston, MA 02108

In re Application of:
Kenneth Goodman, et al.
Serial No. 10/313,767
Filed December 6, 2002
For: Computer Accessory Having Assemblage of Mouse Pad and Paper Pad

: DECISION ON PETITION
: UNDER 37 C.F.R. 1.181

This is a decision on the Petition under 37 C.F.R. 1.181(a) and/or 37 C.F.R. 1.137 filed December 3, 2004 for Supervisory Review of the Examiner's Refusal (1) to enter proposed amendment dated October 2, 2004 and (2) to issue a Notice of Allowance and a decision on the Petition For Withdrawal of Examiners Holding Of Abandonment and For Reinstatement And Revival Under 37 CFR 1.181(a) and/or 37 CFR 1.137 filed January 14, 2005.

The petitions are GRANTED to the extent indicated below.

A review of the application file history reveals that an Advisory Office action was mailed October 22, 2004 in which the examiner failed to enter applicants' amendment after final, which after final amendment, was received October 3, 2004. The examiner's reason for failure to enter the amendment was that "The addition of the paper pad being 'snugly' retained in new claim 27 would require further consideration."

In the Final Rejection, mailed April 2, 2004, the examiner indicated that "Claims 4 and 22 are allowed" and that "Claim 16 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims." Claim 16 was a dependent claim that depended directly on independent Claim 13.

It is noted that in applicants' response of October 3, 2004 the amendment to the last line of Claim 13 included the insertion of the word "snugly" having been underlined.

In applicants' Amendment after Final, October 3, 2004, it is noted that independent Claim 13 and dependent Claim 16 were canceled and replaced with a new independent Claim 27. Although Claim 27 was a new claim, in its penultimate line, the word "snugly" had been

incorrectly underlined. This appears to have been a minor informality error carried forward from applicants' amendment of January 9, 2004.

New independent Claim 27, October 3, 2004, is in fact Claim 13, January 10, 2004, having been written in independent form and Claim 13 was indicated as being allowable by the examiner April 2, 2004. It would therefor follow that from the examiner's prior review Claims 16 and 27 would be allowable absent any newly found art.

The Petition under 37 C.F.R. 1.181(a) and/or 37 C.F.R. 1.137 filed December 3, 2004 for Supervisory Review of the Examiner's Refusal (1) to enter proposed amendment dated October 2, 2004 and (2) to issue a Notice of Allowance ask: (1) the proposed amendment date October 2, 2004 to be entered; and (2) a Notice of Allowance be issued.

As to item 2 this deals with an issue of a rejection of the claim in the application. Such issue is appealable and thus generally not treatable on petition. This issue will therefore not be treated in this decision. MPEP 1002

As to item 1, it has been determined that applicants' amendment after final, filed October 3, 2004, did not "raise new issues that would require further consideration and/or search (see NOTE below): The addition of the paper pad being 'snugly' retained in new claim 27 would require further consideration." And the advisory action mailed October 22, 2004 was improper and therefore has been withdrawn. The amendment filed October 3, 2004 has been entered and the advisory action mailed October 22, 2004 has been vacated.

The Petition For Withdrawal of Examiners Holding Of Abandonment and For Reinstatement And Revival Under 37 CFR 1.181(a) and/or 37 CFR 1.137 filed January 14, 2005 has been granted.

The file will be forward to the Supervisory Legal Instruments Examiner for withdrawal of the Abandonment, prior to returning the file to the examiner for a treatment on the merits and for a new action by the examiner on the After Final amendment filed October 3, 2004.

SUMMARY: The petitions are GRANTED to the extent indicated.

John Love, Director
Patent Technology Center 3600
(703) 308-6873
Facsimile No. (703) 0306-4597

LAB:lab 3/9/04

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APR 27 2004

OFFICE OF PETITIONS

KOESTNER BERTANI LLP
18662 MACARTHUR BLVD
SUITE 400
IRVINE, CA 92612

In re Application of
Daniel R. Salmonsen
Application No. 10/313,782
Filed: December 5, 2002
Attorney Docket No. 1003.P003 US (PA-1276):

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed June 4, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on February 25, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

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

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

Application No. 10/313,782

This application is being forwarded to Technology Center Art Unit 2181 for examination in due course.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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KACVINSKY LLC
C/O CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: Gerald Lebizay	: DECISION ON REQUEST FOR
Patent Number	: 7573876	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/313,783	: 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 **1812** 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)
6919578	2005-07-19	10313785	2002-12-06	P11404D

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

SURCHARGE

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Jeffrey S. Draeger/	Date (YYYY-MM-DD)	2009-11-02
Name	/Jeffrey S. Draeger/	Registration Number	41000

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. 6919578
Issue Date: July 19,2005
Application No. 10313785
Filed: December 6,2002
Attorney Docket No. ITO.0526D1US (P11404D)

:

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

:

This is a decision on the electronic petition, filed November 3,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 3,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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LADAS & PARRY
5670 WILSHIRE BOULEVARD, SUITE 2100
LOS ANGELES, CA 90036-5679

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ON PETITION

In re Application of :
Hideo Shimizu :
Application No. 10/313,797 :
Filed: December 6, 2002 :
Attorney Docket No. B-4319DIV 620248-0 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 25, 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 final Office action mailed December 2, 2003, which set a shortened statutory period for reply of three (3) months. A two-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. An Advisory action was mailed June 18, 2004 indicating that the reply filed on May 3, 2004 failed to place the application in condition for allowance. Accordingly, the application became abandoned on May 3, 2004.

Receipt is acknowledged of the Amendment filed February 25, 2005, with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being forwarded to Technology Center 3700, Art Unit 3751 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Retta Williams

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

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BURNS DOANE SWECKER & MATHIS LLP
PO BOX 1404
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JUN 21 2005
OFFICE OF PETITIONS

In re Application of
Liu, et al.
Application No. 10/313,804
Filed: December 6, 2002
Attorney Docket No. 005950-819

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(6), filed December 13, 2004, to accept an unintentionally delayed claim for priority under 35 U.S.C. 119(e) for the benefit of provisional applications 60/336,722 and 60/397,341.

The petition is **DISMISSED**.

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 1.78(a)(5)(ii). 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 CFR § 1.78(a)(5)(i) of the prior-filed

application(s), unless previously submitted;[1]

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(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.

A reference to add the above-noted , prior-filed application on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. See In re deSeversky, supra. See also MPEP 201.06(c).

---

[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).

Accordingly, before the instant petition can be granted, a substitute amendment[2] deleting the incorporation by reference statement to application nos. 60/336,722 and 60/397,341, along with a renewed petition under 37 CFR 1.78(a)(6) is required. No further petition fee is required on renewed petition.

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) 872-9306
Attn: Office of Petitions

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

Charles Pearson
Director
Office of Petitions

[2] See 37 CFR 1.121

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PO BOX 1404
ALEXANDRIA VA 22313-1404

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OFFICE OF PETITIONS

In re Application of
Liu, et al.
Application No. 10/313,804
Filed: December 6, 2002
Attorney Docket No. 005950-819

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed July 11, 2005, to accept an unintentionally delayed claim for priority under 35 U.S.C. 119(e) for the benefit of provisional applications 60/336,722 and 60/397,341.

The petition is **DISMISSED**.

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 1.78(a)(5)(ii). 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 CFR § 1.78(a)(5)(i) of the prior-filed

application(s), unless previously submitted;[1]

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(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.

Applicants filed a petition under 37 CFR 1.78(a)(6)on December 13, 2004. However, the petition was dismissed in a decision mailed on June 21, 2005. The decision stated that the amendment submitted with the petition was not proper because it included an improper incorporation by reference statement to application nos. 60/336,722 and 60/397,341 . Application nos. 60/336,722 and 60/397,341 were not incorporated by reference on filing. See MPEP 201.06(c).

With the instant petition, petitioner has submitted an amendment removing the incorporation by reference to application no. 60/336,722. However, the amendment still contains an incorporation by reference statement to application no. 60/397,341. Applicant points out that on filing application no. 60/387,341 was incorporated by reference by filing, and that submitting an amendment to incorporate by reference application no. 60/397,341 corrects an "obvious typographical error". Petitioner's argument has been considered but is not persuasive.

Accordingly, before the instant petition can be granted, a substitute amendment[2] deleting the incorporation by reference statement to application no. 60/397,341, along with a renewed petition under 37 CFR 1.78(a)(6) is required. No further petition fee is required on renewed petition.

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

---

[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).

[2] See 37 CFR 1.121

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

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

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

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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BURNS DOANE SWECKER & MATHIS LLP
PO BOX 1404
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OFFICE OF PETITIONS

In re Application of	:	
Liu, et al.	:	
Application No. 10/313,804	:	DECISION ON PETITION
Filed: December 6, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 005950-819	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed January 13, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to the provisional applications 60/336,722 and 60/397,341.

The petition is **DISMISSED**.

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 1.78(a)(5)(ii). 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 Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

Applicants filed a petition under 37 CFR 1.78(a)(6) on December 13, 2004. However, the petition was dismissed in a decision mailed on June 21, 2005. The decision stated that the amendment submitted with the petition was not proper because it included an improper incorporation by reference statement to application nos. 60/336,722 and 60/397,341. Application nos. 60/336,722 and 60/397,341 were not incorporated by reference on filing. See MPEP 201.06(c).

On July 11, 2005, petitioner filed a renewed petition and submitted an amendment removing the incorporation by reference to application no. 60/336,722. However, the amendment still contained an incorporation by reference statement to application no. 60/397,341. Petitioner argued that on filing application no. 60/387,341 was incorporated by reference, and that submitting an amendment to incorporate by reference application no. 60/397,341 corrects an "obvious typographical error". Petitioner's argument was considered, but found to be unpersuasive. Accordingly, the renewed petition was dismissed in a decision mailed on December 22, 2005. Petitioner was advised to submit a substitute amendment deleting the incorporation by reference statement to application no. 60/397,341.

On renewed petition, petitioner still has not submitted a proper amendment. The amendment submitted on petition incorporates by reference application nos. 60/348,032 and 60/262,842. These applications were not incorporated by reference on filing. 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)).

Before the petition under 37 CFR § 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matter 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 Petitions Attorney Cliff Congo at (571) 272-3207.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PAULINE ANN CLARKE
CV THERAPEUTICS, INC.
3172 PORTER DRIVE
PALO ALTO, CA 94304

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APR 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Jeff Zablocki et al :
Application No. 10/313,818 : ON PETITION
Filed: December 5, 2002 :
Attorney Docket No. 00-686-CIP

This is a decision on the petition, filed March 31, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on February 2, 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]

The declaration filed with petition on March 31, 2004 is considered to be defective. The declaration lacks compliance with § 1.63(b)(2), no inventor has executed the declaration naming all inventors. Accordingly, a substitute declaration executed by all joint inventors is required. See MPEP 602, which states:

> Where joint inventors execute separate oaths or declarations each oath or Declaration should make reference to the fact that the affiant is a joint Inventors indicating them by name.

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

The file will be forwarded to Technology Center AU 1624for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Declaration.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : April 1, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of Application No. 10/313,818

Applicant(s) : Jeff Zablocki et al
Application No. : 10/313,818
Filed : December 5, 2002

The above-identified application has been assigned Patent No. 6,716,848 and an issue date of April 6, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of : April 6, 2004.

> "All reference to Patent No. 6,716848 to Jeff Zablocki et al of California for HETEROARYL ALKYL PIPERAZINE DERIVATIVES appearing in the Official Gazette of April 6, 2004 should be deleted since no patent was granted."

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

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

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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William N. Hulsey, III
Hughes & Luce, L.L.P.
1717Main Street, Suite 2800
Dallas, Texas 75201

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JUN 03 2005

OFFICE OF PETITIONS

In re Application of
William H. Rice
Application No. 10/313,820
Filed: December 6, 2002
Attorney Docket No. 14007:12

DECISION
ON PETITION
37 CFR 1.137(a)

This is a decision on the petition under 37 CFR 1.137(a), filed April 1, 2005, 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(a) 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.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed;[1] (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). The instant petition lacks item 3.

The above-identified application became abandoned for failure submit the issue fee in a timely manner in reply to the Notice of Allowance mailed September 3, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 3, 2004.

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office

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

action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

The initial question is, who was responsible for preparing and filing the reply. The combined declaration power of attorney present on filing named Messrs. Hulsey, McLauchlan, Lando, and Schell at Hughes & Luce of Dallas, Texas as counsel of record. A second declaration was filed February 24, 2003 that did not specifically name Lando, but as it did not specifically revoke his power, Lando remained of record. The Notice of Allowance (Notice) was properly mailed to the specified address at Hughes & Luce. While a request for withdrawal from representation for this application was filed by a Mr. Weiss (not of record) requesting withdrawal for himself and Messrs. Grether, Fortkort Goshorn, and Kelton shortly after the Notice was mailed, such did not relieve Hulsey, McLauchlan, Lando, and Schell of the need to take all action necessary to file a proper and timely reply to the Notice. This is especially so since the counsel seeking withdrawal from representation were apparently never counsel of record. In any event, as indicated in MPEP 402.06 "The withdrawal is effective when approved rather than when received." Since the withdrawal was not approved until February 2005, which is long after the case went abandoned for failure to reply, the filing of the request had no causal effect on, and does not excuse, the abandonment of this case. Indeed there is no showing that any one or more of Hulsey, McLauchlan, Lando, and Schell took "all action necessary" or any action at all, to reply to the Notice. Since this application became abandoned while Hulsey, McLauchlan, Lando, and Schell were named counsel of record, applicant is required to obtain a statement from those personnel at Hughes & Lucas having firsthand knowledge of the facts, explaining why and how this application became abandoned while under their control. Copies of any correspondence relating to the Notice and docket records showing that the Notice was docketed for reply are required. Copies of all correspondence with the USPTO relating to the correspondence address and power of attorney are required.

As to the petition's statements as to the delays in forwarding of this file from Hughes & Luce to Hulsey Grether & Fortkort, and from there to Hulsey International Property lawyers, this is not persuasive of unavoidable delay. If the Notice was mailed to an obsolete address for counsel, then counsel cannot rely upon the ensuing delay as unavoidable delay. A prudent and careful person with respect to his most important business would ensure that all USPTO communications were mailed directly to his most current address, and counsel is responsible for promptly notifying the USPTO of any change in his correspondence address. MPEP 601.03. That is, petitioner may not rely on an Office communication duly mailed to an obsolete address as a basis for proving that the attendant delay was unavoidable delay. See Ray v. Lehman, 55 F.3d 606, 610, 34 USPQ2d 1786, 1788-1789 (Fed. Cir. 1995). Rather, delay resulting from a failure to properly provide the Office with a current address is not unavoidable delay. Id. Counsel's apparent preoccupation with his serial relocations does not excuse his lack of diligence with respect to ensuring the prosecution of this application. See Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981). This is especially so in that "[b]ecause little legal work of consequence is involved in tendering the issue fee, there is no need for an unlimited time within which to 'respond.'" See Brenner v. Ebbert, 398 F.2d. 762, 765, 157 USPQ 609, 611 (D.C. Cir. 1968), *cert. den.* 159 USPQ 799.

The showing of record provided by petitioner appears to have been filed by petitioner's (current) representative William N. Hulsey III. The showing, however is unsigned and cannot be considered a proper showing. See 37 CFR 1.33(b)(2) and 37 CFR 1.34(a).

Petitioner should consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1,210.00 petition

fee.

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

The file does not indicate a change of address has been submitted subsequent to the change of address filed September 27, 2004, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

By mail: Mail Stop Petitions
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 22313

Telephone inquiries concerning this decision should be directed to Stephen Cronin at (571) 272-6051 or in his absence, the undersigned at (571) 272-3217.

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

CC: William N. Hulsey III
Hulsey Intellectual Property Attorneys, P.C.
1250 S. Capital of Texas Hwy.
Building 3, Suite 610
Austin, Texas 78746

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

William N. Hulsey
HULSEY+Intellectual Property Lawyers, P.C.
1250 S. Capital of Texas Hwy
Bldg. 3, Suite 610
Austin TX 78746

In re Application of
RICE
Application No. 10/313,820
Filed: December 6, 2002
Attorney Docket No. RICE002US1

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 15, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance and Fee(s) Due, mailed September 3, 2004, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on December 4, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee and the publication fee; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee payment and the publication fee payment are accepted as having been unintentionally delayed.

Office finance records reflect a duplicate payment for the issue fee ($700) and publication fee ($300). Accordingly, petitioner may request a refund of the overpayment by writing to Mail Stop 16, Director of the US Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

The application matter is referred to the Office of Patent Publication.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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Mark R. Wisner
Wisner & Associates
1177 West Loop South, Suite 400
Houston TX 77027-9012

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JUL 22 2004

OFFICE OF PETITIONS

In re Application of
Yin Chen
Application No. 10/313,828
Filed: December 6, 2002
Attorney Docket No. CRYA,023

ON PETITION

This is a decision on the petition, filed February 5, 2004, 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 a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosure mailed February 25, 2003, which set a two-month period for reply. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. On June 17, 2004, a Notice of Abandonment was mailed. In response, the present petition was filed.

The petition is found to comply with the requirements of the 37 CFR 1.137(b). Accordingly, the application is being returned to the Office of Initial Patent Examination (OIPE) for further processing.

Telephone inquires related to this decision should be directed to the undersigned at (703) 305-9220. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

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

OIPE JC107
AUG 3 1 2004
PATENT & TRADEMARK OFFICE

CERTIFICATE OF EXPRESS MAILING
"Express Mail" Mailing Label No.: ED 043241471 US
I hereby certify that this paper or fee is being deposited with the United States Postal Service with sufficient postage as first class "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated below and is addressed to MS: AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
Date of Deposit: August 31, 2004

Selena Whitaker-Paquiet

Attorney Docket No.: 13317.1001
PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of **Peter KITE and David HATTON**

Group Art Unit: 1744

Application No.	:	10/313,844
Filed	:	December 5, 2002
For	:	ANTI-MICROBIAL SYSTEMS AND METHODS
Examiner	:	Elizabeth L. McKane

PETITION TO MAKE SPECIAL

PETITION GRANTED
R Crispino
Richard Crispino
Special Program Examiner
TC 1700 2/7/05

MAIL STOP: AMENDMENT
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir or Madam,

Applicants petition for accelerated examination pursuant to MPEP 708.02(VIII). The fee set forth in 37 CFR 1.17(h) accompanies this petition. Applicants believe that all pending claims are directed to a single invention. If the Office determines that all the claims are not obviously directed to a single invention, applicants will promptly make an election without traverse.

Claims 7-17 and 21-24 are pending as a result of the Second Preliminary Amendment, filed herewith. A copy of pending claims 7-17 and 21-24 is attached hereto as Exhibit A.

A pre-examination search was made by the U.S. Patent and Trademark Office as the International Preliminary Search and Examination Authority in connection with PCT International Application No. PCT/US02/38863, published June 12, 2003 as WO 03/047341. A copy of the International Search Report (ISR) is attached as Exhibit B. The ISR cited a single reference: U.S. Patent 4,258,056 of Lentsch. A Written Opinion mailed May 3, 2004 cited three additional prior art references: Root et al., "Inhibitory Effect of Disodium EDTA upon the

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SPECKMAN LAW GROUP PLLC
1501 WESTERN AVENUE
SEATTLE WA 98101

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SEP 1 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Peter Kite et al	:	
Application No. 10/313,844	:	ON PETITION
Filed: December 5, 2002	:	
Attorney Docket No. 13317.1001	:	

This is a decision on the petition, filed September 9, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 24, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The instant petition under 37 CFR 1.313(c)(2), the RCE and the IDS, filed on September 9, 2005, are not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Robert G. Mukai appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he act. However, if Mr. Mukai desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Mukai, the petitioner herein. Until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

---

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

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

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center Art Unit 1744 for processing of the request for continued examination under 37 CFR 1.114 filed September 9, 2005.

Karen Creasy

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

cc:
ROBERT G. MUKAI
P.O. BOX 1404
ALEXANDRIA VA 22313-1404

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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STEVEN J. SARUSSI
MCDONNELL BOEHNEN HULBERT & BERGHOFF
32ND FLOOR
300 S. WACKER DRIVE
CHICAGO, IL 60606

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SEP 29 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Ruth Tenbrink, et al. :
Application No. 10/313,849 :
Filed: December 6, 2002 :
Attorney Docket No.: 01-1648-B :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 16, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 1621 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Ruth Tenbrink, et al.	:	
Application No.: 10/313,849	:	ON PETITION
Filed: December 6, 2002	:	
Attorney Docket No.: 01-1648-B	:	

This is a decision on the petition, filed May 1, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee. The petition includes a Request for Continued Examination (RCE) and an Amendment; however, the RCE is unsigned. A ratification of the unsigned RCE was filed on May 1, 2007.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 16, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1621 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 Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No. 4

KOESTNER BERTANI LLP
18662 MACARTHUR BLVD
SUITE 400
IRVINE CA 92612

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JUN 19 2003

OFFICE OF PETITIONS

In re Application of :
Daniel R. Salmonsen :
Application No. 10/313,850 : ON PETITION
Filed: December 5, 2002 :
Attorney Docket No. 1003.P006 US :
(PA-1279)

This is a decision on the petition to revive under 37 CFR 1.137(f), filed June 4, 2003, which is being treated as a petition under 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application was filed on December 5, 2002 with a nonpublication request and certification under 35 U.S.C. 122(b)(2)(B)(i). Petitioner states that the instant nonprovisional application is the subject of a PCT international application filed on February 25, 2003. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application.

Applicant failed to file a Rescission of Nonpublication Request before the PCT filing. Accordingly, as no rescission was filed prior to the filing of the PCT application, applicant was required by 35 U.S.C. 122(b)(2)(B)(iii) to provide notice of the PCT filing not later than forty-five days after the date the PCT application was filed to avoid abandonment of the 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 due to the notice of foreign filing. A corrected filing receipt which sets forth a projected publication date of March 11, 2004 accompanies this decision on petition.

The petition fee of $1,300 has been charged to Deposit Account No. 50-2240, as authorized.

The application is being forwarded to Technology Center 2100, Group Art Unit 2123, for docketing.

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

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: corrected filing receipt (2 pages)

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

LEE, HONG, DEGERMAN, KANG & SCHMADEKA
801 S. FIGUEROA STREET, 12TH FLOOR
LOS ANGELES, CA 90017

In re Application of	:	
Min Seok Jang	:	
Application No. 10/313,870	:	DECISION GRANTING PETITION
Filed: December 4, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 2080-3-139	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 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 above-identified application became abandoned on November 2, 2005. A Notice of Abandonment was mailed on July 20, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply, (2) the $1,500 petition fee as authorized by the petition, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of August 1, 2005 is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 2622 for appropriate action in the normal course of business on the reply received November 1, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LAW OFFICES OF MARK A. GARZIA, P.C.
2058 CHICHESTER AVE.
BOOTHWYN, PA 19061

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OFFICE OF PETITIONS

In re Application of	:	
Rossi, et al.	:	
Application No. 10/313,918	:	DECISION ON PETITION
Filed: December 4, 2002	:	UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. FDS-P7.1-US	:	UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed April 15, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications, set forth in the petition.

The petition is DISMISSED.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant petition fails to comply with item (1) above.

The amendment submitted concurrently with the instant petition as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a

separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

In view of the above, the amendment to add a priority claim to the first line of the specification, which is physically embedded in the instant petition, is not acceptable. Accordingly, a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), must be submitted.

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

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

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

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

Any inquiries concerning this decision may be directed to Petitions Attorney Edward Tannouse at (571) 272-3228.

Frances Hicks

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

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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LAW OFFICES OF MARK A. GARZIA, P.C.
2058 CHICHESTER AVE.
BOOTHWYN, PA 19061

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OFFICE OF PETITIONS

In re Application of	:	
Rossi, et al.	:	DECISION ON PETITIONS
Application No. 10/313,918	:	UNDER 37 CFR 1.78(a)(3) AND
Filed: December 4, 2002	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. FDS-P7.1-US	:	

This is a decision on the request for reconsideration of petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed September 1, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the Application Data Sheet (ADS) submitted March 15, 2004.

The petitions are granted.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional applications as required by 37 CFR 1.78(a)(5)(ii).

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an Application Data Sheet, as provided by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

This application is being forwarded to Technology Center Art Unit 2125 for appropriate action, including consideration by the examiner of the claim for the benefit of the prior-filed applications.

Any questions concerning this matter may be directed to Petitions Attorney Edward Tannouse at (571) 272-3228. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Frances Hicks

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

ATTACHMENT : Corrected Filing Receipt

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2532 DUPONT DRIVE
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APR 16 2008

In re Application of
Mohammed H. Kolsy
Application No. 10/313,929
Filed: December 6, 2002
Attorney Docket No. K020-4000

ON PETITION

This is a decision in response to the petition, filed January 3, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed January 8, 2007. A Notice of Abandonment was mailed on August 16, 2007. In response, on January 3, 2008, the present petition was filed.

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; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2141 for consideration of the amendment filed January 3, 2008.

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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IRVINE, CA 92612

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OFFICE OF PETITIONS

In re Application of
Mohammed H. KOLSY
Application No. 10/313,929
Filed: December 6, 2002
Attorney Docket No. **K020-4000**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 1, 2009, June 17, 2009 and re-submitted on June 19, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Natu Patel, the sole attorney of record. Natu Patel has been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the sole named signing inventor at the address below until otherwise properly notified by the applicant.

There is an outstanding final Office action mailed May 28, 2009 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: **MOHAMMED H. KOLSY**
36 BLAKELEY
IRVINE, CA 92620

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PAUL J. FORDENBACHER
SCHWABE WILLIAMSON & WYATT
1211 SW FIFTH AVENUE, SUITE 1900
PORTLAND, OR 97204

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In re Application of	:	
Chakravorty, Kishore K.	:	
Application No. 10/313,935	:	ON PETITION
Filed: December 5, 2002	:	
Attorney Docket No. 42.P13719	:	

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 the Issue Fee Transmittal with payment of the issue/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.

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.

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

Cc:

BLAKELY SOKOLOFF TAYLOR & ZAFMAN, LLP
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 19, 2005

TO SPE OF : ART UNIT 2881

SUBJECT : Request for Certificate of Correction on Patent No.: 6,809,317

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:

Original IDS is missing from IFW file.

SPE

2881
Art Unit

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P.O. BOX 770
CHURCH STREET STATION
NEW YORK NY 10008-0770

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OFFICE OF PETITIONS

In re Patent No. 7,042,885 :
Issue Date: May 9, 2006 :
Application No. 10/313,946 : ON PETITION
Filed: December 5, 2002 :
Attorney Docket No. 08212/000S089-USO :

This is a decision on the petition filed July 17, 2006, 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 "Nokia Corporation, Espoo Finland."

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 to "Nokia Inc." was recorded on June 21, 2004, which was the recorded assignee at the time of

issuance of the patent on May 9, 2006. Accordingly, issuance of a certificate of correction would not be proper for Nokia Corporation.

The Office sincerely apologizes for the delay in replying to the above matter.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
Francis Eugene ROHLING, et al	:	
Application No. 10/313,948	:	DECISION ON PETITION
Filed: December 6, 2002	:	TO WITHDRAW
Attorney Docket No. 021366-000110US	:	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 30, 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 Barmak Sani on behalf of all attorneys/agents of record associated with Customer Number 20350.

All attorneys/agents of record associated with Customer Number 20350 have been withdrawn.

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

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: FRANCIS EUGENE ROHLING
4770 MISTY LAKE COURT
KENNESAW, GA 30144

cc: RANDY SHEPARD
DVA GROUP, INC.
2570 WEST EL CAMINO REAL
SUITE 440
MOUNTAIN VIEW , CA 94040

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United States Patent and Trademark Office
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ROHM AND HAAS ELECTRONIC MATERIALS LLC
455 FOREST STREET
MARLBOROUGH MA 01752

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OFFICE OF PETITIONS

In re Application of
Barclay et al
Application No. 10/313,954
Filed: December 6, 2002
Title: PHENOLIC/ALICYCLIC COPOLYMERS AND PHOTORESISTS

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed January 16, 2007.

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

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This application was held abandoned June 14, 2006 for failure to timely reply to the final Office Action mailed on March 13, 2006. The final Office Action set a three (3) month extendable time period for reply. A Notice of Abandonment was mailed November 16, 2006.

Petitioner contends the Office Action mailed on March 13, 2006 was not received because it was mailed to the incorrect correspondence address. Petitioner states a change of address was previously submitted.

A review of the record shows that the Notice was properly mailed to the correspondence address of record. However a review of the record shows that the Office is not in receipt of a request to change the correspondence address prior to the one received on October 13, 2006. To the extent petitioner maintains a change of correspondence address was submitted, evidence of the prior submission should be

provided in a renewed petition.

Where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address does not constitute unavoidable delay. See MPEP 711.03(c). Nor would the failure to promptly change the correspondence allow for withdrawing the holding of abandonment.

In the alternative, petitioner may wish to file a petition under 37 CFR 1.137(b).

The address on the petition differs from the correspondence address of record. While a courtesy copy of this decision is being mailed to the person signing the present petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary. A request for change of address via customer number 53884 (the current correspondence address of record) made December 14, 2006 has been entered.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Peter Corless
Edwards Angell Palmer & Dodge LLP
P. O. Box 55874
Boston, MA 02205

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OFFICE OF PETITIONS

ROHM AND HAAS ELECTRONIC MATERIALS LLC
455 FOREST STREET
MARLBOROUGH MA 01752

In re Application of
Barclay et al
Application No. 10/313,954
Filed: December 6, 2002
Title: PHENOLIC/ALICYCLIC COPOLYMERS AND PHOTORESISTS

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed May 21, 2007.

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

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This application was held abandoned June 14, 2006 for failure to timely reply to the final Office Action mailed on March 13, 2006. The final Office Action set a three (3) month extendable time period for reply. A Notice of Abandonment was mailed November 16, 2006. A petition was dismissed on March 19, 2007.

Petitioner contends the Office Action mailed on March 13, 2006 was not received because it was mailed to the incorrect correspondence address. Petitioner states a change of address was previously submitted.

A review of the record shows that the Notice was properly mailed to the correspondence address of record. A review of the record shows that the Office is not in receipt of a request to change the correspondence address prior to the one received on October 13, 2006. On renewed petition, petitioner has provided a copy of the purported request for change of correspondence address which was submitted prior to

March 13, 2006.

The evidence has been reviewed but determined to be unconvincing. Where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address does not constitute unavoidable delay. See MPEP 711.03(c). Nor would the failure to promptly change the correspondence allow for withdrawing the holding of abandonment.

Petitioner has failed to provide a copy of the spread sheet showing the above-identified application was included in the request for the change of correspondence address on March 4, 2004. Further a review of the United States Postal Services track and confirm system shows that there is no record of Express Mail Label no. ER236679982US.

Any renewed petition should include a copy of the Express Mail Label no. ER236679982US, a copy of the spread sheet showing where the above-identified application was included in the request, and any other evidence that establishes prior submission of the request to change the correspondence address.

In the alternative, petitioner may wish to file a petition under 37 CFR 1.137(b).

The address on the petition differs from the correspondence address of record. While a courtesy copy of this decision is being mailed to the person signing the present petition, 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

By facsimile: (571) 273-8300

By delivery service:
(FedEx, UPS, DHL, etc.)

U.S. Patent and Trademark Office
Customer Service Window,
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Peter Corless
Edwards Angell Palmer & Dodge LLP
P. O. Box 55874
Boston, MA 02205

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROHM AND HAAS ELECTRONIC MATERIALS LLC
455 FOREST STREET
MARLBOROUGH MA 01752

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OCT 3 1 2007

OFFICE OF PETITIONS

In re Application of :
Barclay et al :
Application No. 10/313,954 :
Filed: December 6, 2002 :
Title: PHENOLIC/ALICYCLIC COPOLYMERS :
AND PHOTORESISTS

ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed August 15, 2007.

This petition is hereby **Granted**.

This application was held abandoned June 14, 2006 for failure to timely reply to the final Office Action mailed on March 13, 2006. The final Office Action set a three (3) month extendable time period for reply. No extension of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on June 14, 2006. A Notice of Abandonment was mailed November 16, 2006. Petitions were dismissed on March 19, 2007 and June 15, 2007.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. 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 and RCE, (2) the petition fee of $1500.00, and (3) a proper statement of unintentional delay.

The address on the petition differs from the correspondence address of record. While a courtesy copy of this decision is being mailed to the person signing the present petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

The RCE and the amendment submitted with the instant petition will be forwarded to Art

Unit 1752 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Peter Corless
Edwards Angell Palmer & Dodge LLP
P. O. Box 55874
Boston, MA 02205

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Paper No.

AGENSYS C/O MORRISON &
FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

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OCT 01 2009

OFFICE OF PETITIONS

In re Application of	:	
Raitano et al.	:	
Application No. 10/313,972	:	ON APPLICATION FOR
Filed: December 6, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. 511582006320	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705 filed February 17, 2009. Applicants submit that the correct determination of patent term adjustment is nine hundred seventy-two (972) days, not four hundred eleven (411) days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent[1].

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 1.702(a)(4) or applicant delay under 1.704(c)(10) until the

[1] This calculation is based on a projected issuance date of June 16, 2009.

actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued. Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. As such, it is appropriate to dismiss as premature such a request.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term 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) for consideration of the application for patent term adjustment under 37 CFR 1.705(b). No additional fees are required for such consideration.

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

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Patent Environmental Law Center
P.O. Box 430144
Birmingham, AL 35243

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JAN 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Donald S. Outlaw	:	
Application No. 10/313,984	:	ON PETITION
Filed: December 6, 2002	:	
Attorney Docket No. grillarts4	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 8, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to the non-final Office action mailed January 25, 2005.

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

The Office also acknowledges receipt of $1,080 for a five (5) 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 $1,080 extension of time fee was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner by Treasury Check, in due course.

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

The application file is being referred to Technology Center Art Unit 1744, for review of the amendment filed with the instant petition.

Andrea Smith
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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W. L. Gore & Associates, Inc.
551 Paper Mill Road
P.O. Box 9206
Newark, DE 19714-9206

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AUG 1 0 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Bradley E. Reis, et. al.	:
Application No. 10/313,989	:
Filed: December 6, 2002	:
Attorney Docket No. WC/476	:

This is a decision on the petition under 37 CFR 1.137(b), filed May 27, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 15, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight January 15, 2004.

In response, petitioner submitted with the instant petition $1,330 for the petition to revive fee, an amendment, and a three (3) months 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 $950 extension of time submitted with the petition on May 27, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The petition is **GRANTED**.

The application file is being forwarded to Technology Center Art Unit 2831, for review of the amendment filed with the instant petition.

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

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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Robert Iannucci
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE WA 98104-7092

APR 01 2005

In re Application of: Bez et al	:	
Application No. 10/313,991	:	Decision on Petition
Filed: December 5, 2002	:	
Attorney Docket No. 854163.406	:	
	:	

This is a decision on the petition filed under 37 C.F.R. § 1.144 on March 17, 2005 to withdraw the restriction requirement of claims 1-43.

The petition is GRANTED to the extent that the restriction requirement has been reviewed and modified as indicated below, but DENIED as to withdrawal of the restriction requirement.

Title 37 C.F.R. § 1.144 sets forth the requirements for a Petition from the requirement for restriction.

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

Petitioner asserts that the Requirement for Restriction of December 30, 2003, is improper because the examiner did not correctly support his assertion that the inventions were independent or distinct.

M.P.E.P. 803 states in pertinent part:

> Under the statute an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 806.04 - § 806.04(i)) or distinct (MPEP § 806.05 - § 806.05(i)).
> If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions

M.P.E.P. 806.01 states in pertinent part:

> Where two or more related inventions are being claimed, the principal question to be determined in connection with a requirement to restrict or a rejection on the ground of double patenting is whether or not the inventions as claimed are distinct. If they are distinct, restriction may be proper.

M.P.E.P. 808.02 states in pertinent part:

> Where the related inventions as claimed are shown to be distinct under the criteria of MPEP § 806.05(c) - § 806.05(i), the examiner, in order to establish reasons for insisting upon restriction, must show by appropriate explanation one of the following:
>
> (A) Separate classification thereof : This shows that each distinct subject has attained recognition in the art as a separate subject for inventive effort, and also a separate field of search. Patents need not be cited to show separate classification.
>
> (B) A separate status in the art when they are classifiable together: Even though they are classified together, each subject can be shown to have formed a separate subject for inventive effort when an explanation indicates a recognition of separate inventive effort by inventors. Separate status in the art may be shown by citing patents which are evidence of such separate status, and also of a separate field of search.
>
> (C) A different field of search : Where it is necessary to search for one of the distinct subjects in places where no pertinent art to the other subject exists, a different field of search is shown, even though the two are classified together. The indicated different field of search must in fact be pertinent to the type of subject matter covered by the claims. Patents need not be cited to show different fields of search.

Petitioner's arguments are not found persuasive because method and product are statutorily distinct categories of invention, and the particular method claimed is distinct from the particular product claimed because there is an alternative method of making the device. Therefore, there is no reason why a search for product must include a search for the method as well. The existence of an alternative method of making the device, as well as the different classification of two inventions, provide evidence of burden on the examiner in examining both inventions.

Distinctness between a process of making and the product made is shown if "the product as claimed can be made by another and materially different process", as set forth in MPEP § 806.05 (f). In the restriction requirement, the examiner set forth several "materially different processes" by which the claimed product could be made.

Petitioner further asserts there would be no serious burden for the Examiner to examine together all of the claims. Serious burden on the examiner is shown according to the criteria of MPEP § 808.02 where one of the following must be supported by appropriate explanation: 1. Separate classification thereof: This shows that each distinct subject has attained recognition in the art as a separate subject for inventive effort, and also a separate field of search. Patents need not be cited to show separate classification. 2. A separate status in the art when they are classifiable together. 3. A different field of search. In the restriction requirement, the examiner set forth separate classifications for the four inventions to which claims were presented. Classification of the device claims is in class 257. Classification of the process claims is in class 438. Applicant has not alleged that either device or process claims were improperly classified. Contact structure is in class 257, subclass 750. Phase

change memory device is in class 257, subclass 312. Process of making contact structure is in class 438, subclass 666. Process form making phase change memory device is in class 438, subclass 95. Nor has applicant alleged that the classifications set forth are not "separate classifications." Thus requirements of MPEP § 803 are met. For these reasons set forth above, the restriction requirement is proper.

Petitioner asserts the examiner has improperly withdrawn claims 35-43 from consideration. Claims 35-43 depend upon claim 1 and were added in the amendments filed on January 29,2004; May 12, 2004; and July 27, 2004. In regards to this argument Petitioner is correct, claims 35-43 are rejoined. Examiner issued a non-responsive action on 4/14/2004 in regards to the newly added claims 35-43. In the non responsive office action examiner states "The amendment filed on Jan. 30, 2004 is non-responsive because applicants fail to elect a single disclose species as set forth in the restriction requirement, such as claims 35-43 containing phase change memory cells, etc. Applicant is advised that a complete reply to this requirement must include an identification of the species that is elected and a listing of all claims readable thereon. There is no support for the non-responsive office action.

A review of the action mailed December 30,2003, indicate that the following restriction was made:

Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 1-6, drawn to a contact structure, classified in Class 257, subclass 750.
11. Claims 7-17, drawn to a phase change memory device, classified in Class 257, subclass 312.
111. Claims 18-24, drawn to process for making contact structure in semiconductor devices, classified in Class 438, subclass 666.'
IV. Claims 25-34, drawn to process for making phase change memory devices, classified in Class 438, subclass 95.

The inventions are distinct and independent, each from the other because of the following reasons:

The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or

(2) A different field of search. In the instant case unpatentability of the group I invention would not necessarily imply unpatentability of the group 11 inventions, for example, a contact structure formed by ion etching and a phase memory device formed by sputtering a chalcogenide material.

Because these inventions are distinct for the reasons given above and as shown by the above different classifications the fields of search are not co-extensive and separate examination would be required, restriction for examination purposes as indicated is proper.

The reasoning set forth to support the above noted restriction requirement cannot be sustained because, as disclosed and claimed, the inventions are in fact related and patentably distinct. As a result, the previous restriction requirement is vacated. The restriction requirement has been modified as follows:

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-17 and 35-43 drawn to a semiconductor device, classified in Class 257, subclass 312, 750.

11. Claims 18-34, drawn to process for making semiconductor devices, classified in Class 438, subclass 95, 666.

Species of the claimed invention:

This application contains claims directed to the following patentably distinct:

Species 1: Claims 1-6, drawn to a contact structure, classified in Class 257, subclass 750.
Species 2: Claims 7-17, drawn to a phase change memory device, classified in Class 257, subclass 312.
Species 3: Claims 18-24, drawn to process for making contact structure in semiconductor devices, classified in Class 438, subclass 666.
Species 4: Claims 25-34, drawn to process for making phase change memory devices, classified in Class 438, subclass 95.

In summary, the inventions of Groups I and II have been shown to be related, but patentably distinct. Further, the burden to the examiner has been shown by the different classification of the inventions and the different searches required for the inventions. Thus, the grouping of the claims for the distinct inventions, as well as the requirement for restriction, per se, were properly made by the examiner, and are maintained.

Applicant elected claims 1-6 with traverse on January 1, 2004, therefore applicant properly responded and provisionally elected claims 1-6 and 35-43.

The application file will be forwarded to the Technical Support staff for Technology Center 2800 for entry of the response to Office action mailed October 13,2004. The final rejection mailed March 10,2005 will be vacated as well as the non-responsive office action mailed on April 14, 2004. Then, the application will be forwarded to the examiner for continued prosecution on the merits.

Inquiries regarding this decision should be directed to Michael Lebentritt at (571) 272-1873.

Sharon Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Paper No: 7

BRINKS HOFER
GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60611

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AUG 12 2003
OFFICE OF PETITIONS

In re Application of :
Stuckman et al. :
Application No. 10/313,998 : ON PETITION
Filed: 5 December, 2002 :
Attorney Docket No.: 8285-564 :

This is a response to the paper filed on 21 July, 2003, styled as a "Petition Under 37 C.F.R. [§1.10[1]] to Correct Filing Date," seeking to obtain a 5 December, 2002, filing date, rather than

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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

the 6 December, 2002, filing date presently accorded

The petition is **GRANTED**, the fee has been waived.

BACKGROUND

The record indicates that:

- Petitioner Joseph F. Hetz (Reg. No. 41,070) (Petitioner) alleges that this nonprovisional application was filed via Express Mail (US Postal Service (USPS) Express Mail No. EL839058025US) on 5 December, 2002;
- the Office thus far has accorded a filing date of 6 December, 2002;
- the instant petition is supported by:

  --the statement of Petitioner included in the petition;

  --a copy of what Petitioner represents to be a copy of the USPS Express Mail No. EL839058025US, bearing the "date in" of 5 December, 2002 (time 8:22 p.m.); and

---

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 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]

--a copy of the application transmittal for the instant application bearing USPS Express Mail No. EL839058025US.

CONCLUSION

Therefore, as to the instant nonprovisional application, Application No. 10/313,998, the Office of Initial Patent Examination is specifically instructed to:

- assign a filing date of 5 December, 2002; and
- issue a filing receipt specifying the filing date as that of 5 December, 2002.

The instant application is being forwarded to OIPE to be handled as set forth above before being forwarded to Technology Center 2600 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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PILLSBURY WINTHROP LLP
725 SOUTH FIGUEROA STREET
SUITE 2800
LOS ANGELES, CA 90017-5406

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OFFICE OF PETITIONS

In re Application of :
Thomas W. Lanni :
Application No. 10/314,008 : ON PETITION
Filed: December 6, 2002 :
Attorney Docket No. P 276973

This is a decision on the petition, filed December 3, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 22, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter will be forwarded to Technology Center AU 2838 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: Prabhakara Rao Yellai	: DECISION ON REQUEST FOR
Patent Number	: 7586855	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/314,013	: 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 **2007** 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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BRIGGS AND MORGAN, P.A.
2200 IDS CENTER
MINNEAPOLIS, MN 55402

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JUL 0 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Musacchia, John J.	:	
Application No. 10/314,036	:	ON PETITION
Filed: December 4, 2002	:	
Attorney Docket No. 33057.7	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 10, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed February 26, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 27, 2004.

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

This matter is now being forwarded to the Publishing Division for processing into a patent.

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

Liana Chase

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

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C. M. MCCLURE
ARENA PHARMACEUTICALS, INC.
6166 NANCY RIDGE DRIVE
SAN DIEGO, CA 92121

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APR 15 2004

OFFICE OF PETITIONS

In re Application of Unett et al. Application No. 10/314,048 Filed: December 6, 2002 Attorney Docket No. 22.US6.CIP	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed December 18, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on October 2, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A

Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of July 22, 2004 accompanies this decision on petition.

This matter is being forwarded to Technology Center AU 1646 to await a reply to the outstanding non-final Office action mailed March 9, 2004. Failure to timely reply will again result in the abandonment of the application.

Any inquiries concerning this decision may be directed to the undersigned at (703) 306-0482.

Liana Chase

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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DAVID WEBER
ADVANCED MEDICAL OPTICS, INC.
1700 E. ST. ANDREW PLACE
SANTA ANA CA 92705

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AUG 18 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of
MARLENE L. PAUL, et al.
Application No. 10/314,069
Filed: December 5, 2002
Attorney Docket No. 27526

This is a decision on the petition under 37 CFR 1.137(a), filed November 21, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The application was abandoned for failure to timely file a proper response to the notice of non-complaint action dated May 2, 2005 which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 3, 2005.

The instant petition was filed on the basis that the attorney of record never received the office action dated May 2, 2005. Petitioner submitted as evidence 1) a statement from practitioner stating that the Office action was not received by the practitioner; 2) a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) a copy of the docket record where the nonreceived Office action would have been entered had it been received, which is attached to and referenced in the practitioner's statement.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of an amendment; (2) the petition fee of $500 for large entity; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

This application is being referred to the Technology Center Art Unit 3738 for appropriate action on the amendment filed with the instant petition on November 21, 2005.

Telephone inquiries concerning this decision should be directed to Amelia Au at (571) 272-7414.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Knobbe, Martson, Olson & Bear LLP
2040 Main Street
14th Floor
Irvine, CA 92614

Mail Date: 06/18/2010

Applicant	: Marlene L. Paul	: DECISION ON REQUEST FOR
Patent Number	: 7662180	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/314,069	: 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 **1412** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No.

HAMILTON & TERRILE, LLP
P.O. BOX 203518
AUSTIN, TX 78720

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OFFICE OF PETITIONS

In re Application of
Kannmacher et al.
Application No. 10/314,074
Filed: December 6, 2002
Title of Invention:
SYSTEM AND METHOD FOR INFORMATION
HANDLING SYSTEM HEAT SINK RETENTION

DECISION GRANTING
STATUS UNDER
37 CFR 1.47

This is in response to a Petition under 37 CFR 1.47(a), filed May 11, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor. The delay in treating this petition is regretted.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Tracey Kannmacher, refuses to join in the application.

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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CALIPER LIFE SCIENCES, INC.
605 FAIRCHILD DRIVE
MOUNTAIN VIEW, CA 94043-2234

In re Application of
Michael Napp et al.
Application No. 10/314,092
Filed: December 5, 2002
Attorney Docket No. 01-000318US

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 8, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 22, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed February 22, 2006. Accordingly, the date of abandonment of this application is May 23, 2006. The Notice of Abandonment was mailed October 9, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400 and the publication fee of $300, (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

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

The Power of Attorney filed November 10, 2006 has been entered and future correspondence will be mailed to the person signing the petition.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

FISH & NEAVE
1251 AVENUE OF THE AMERICAS
50TH FLOOR
NEW YORK NY 10020-1105

In re Application of
Wannamaker et al.
Application No. 10/314,103
Filed: December 6, 2002
Attorney Docket No. VPI/98-03 DIV

DECISION GRANTING PETITION

This is a decision on the petition filed April 16, 2003, requesting that the above-identified application be accorded a filing date of December 6, 2002, with pages 109 and 234 of the specification as part of the original disclosure.

On December 6, 2002, applicants filed the above-identified application. On February 19, 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 6, 2002, and advising applicants that pages 109 and 234 of the specification appeared to have been omitted.

In response, on April 16, 2003, applicants filed, inter alia, the present petition, the petition fee, and a copy of applicants' postcard receipt acknowledging receipt of 296 pages of application and 26 pages of claims. Additionally, applicants submitted a copy of pages 109 and 234 of the specification with the present petition.

Upon review of the record, pages 109 and 234 of the specification, deposited on December 6, 2002, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on December 6, 2002, included pages 109 and 234, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including pages 109 and 234 of the specification, was complete on filing and will be granted a filing date of December 6, 2002.

Accordingly, the petition is granted. The requirement for submission of the omitted items was sent in error and is hereby vacated. Accordingly, the $130.00 petition fee is unnecessary and will be credited to Deposit Account No. 06-1075.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of December 6, 2002, using pages of 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

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2200 ROSS AVENUE
SUITE 2800
DALLAS TX 75201-2784

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JAN 24 2007

OFFICE OF PETITIONS

In re Application of	:	
Breslow et al.	:	
Application No. 10/314,105	:	DECISION ON PETITION
Filed: 12/06/2002	:	
Attorney Docket No. 66360/P018D1/10405884	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 30, 2006, to revive the above-identified application.

On January 13, 2006, the Office mailed a Notice of Allowance and Fee(s) Due, which set a three-month statutory period for reply. In the absence of a timely filed reply, the application became abandoned on April 14, 2006.

The provisions of 37 CFR 1.137(b) provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). 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 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. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to 37 CFR 1.137(d).

The present petition does not satisfy requirement (1) above.

With the present petition, applicant submitted a Request for Continued Examination (and fee) and an amendment in response to the Notice of Allowance. However, the record does not reveal that applicant paid the issue fee and publication fee upon filing this petition to revive.

Pursuant to the provisions of 37 CFR 1.137(b)(1) and (c) and in accordance with 35 USC § 151, in an application abandoned for failure to pay the issue fee and the publication fee, or any portion thereof, the required reply must include payment of the issue fee and the publication fee, or any outstanding balance.

Section 711.03(c)(II)(A)(1) of the Manual for Patent Examining Procedure states:

> While the revival of applications abandoned for failure to timely prosecute and for failure to timely pay the issue fee are incorporated together in 37 CFR 1.137, the statutory provisions for the revival of an application abandoned for failure to timely prosecute and for failure to timely submit the issue fee are mutually exclusive. *See Brenner v. Ebbert*, 398 F.2d 762, 157 USPQ 609 (D.C. Cir. 1968). 35 U.S.C. 151 authorizes the acceptance of a delayed payment of the issue fee, if the issue fee "is submitted ... and the delay in payment is shown to have been unavoidable." 35 U.S.C. 41(a)(7) likewise authorizes the acceptance of an "unintentionally delayed payment of the fee for issuing each patent." Thus, 35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned or patent lapsed for failure to pay the issue fee. Therefore, the filing of a continuing application without payment of the issue fee or any outstanding balance thereof is not an acceptable reply in an application abandoned or patent lapsed for failure to pay the issue fee or any portion thereof.
>
> * * * In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee. Even if an application abandoned for failure to pay the publication fee is being revived solely for purposes of continuity with a continuing application, the petition to revive under 37 CFR 1.137 must include payment of the publication fee.

In view of the above, the petition under 37 CFR 1.137(b) is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." No additional petition fee is necessary.

With any renewed petition, applicant must pay the issue fee and publication fee as required by the Notice of Allowance. The Office reminds applicant that if the application is later allowed, the return of Part B (Fee(s) Transmittal form) would be considered a request to reapply the previously paid issue fee toward the issue fee that would be due. MPEP 1306.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Senior Petitions Attorney Christina Tartera Donnell:**

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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DALLAS OFFICE OF FULBRIGHT & JAWORSKI L.L.P.
2200 ROSS AVENUE
SUITE 2800
DALLAS TX 75201-2784

In re Application of	:	
Breslow et al.	:	
Application No. 10/314,105	:	DECISION ON PETITION
Filed: 12/06/2002	:	
Attorney Docket No. 66360/P018D1/10405884	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 22, 2007, to revive the above-identified application.

On January 13, 2006, the Office mailed a Notice of Allowance and Fee(s) Due, which set a three-month statutory period for reply. In the absence of a timely filed reply, the application became abandoned on April 14, 2006.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply, paid the petition fee, and made an adequate statement of unintentional delay. Accordingly, the petition is **granted.**

This matter is being referred to Technology Center Art Unit 2616 for review of the RCE and submission filed on April 17, 2006.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Paper No. 3

Jack J'maev
11800 CENTRAL AVE., SUITE 110
CHINO CA 91710

Application No. 10/314,106

Filed: 12/6/02

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record filed 9/12/03
A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, *the request is* ***granted.*** All future correspondence will be directed to the below address until such a time as a request for change of address is filed. This address has been provided by the withdrawing attorney(s).

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

cc: John Silverio
Motorola, Inc. BCS Legal Department
101 Tournament Drive
Horsham, PA 19044

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OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Yasuyuki Ohkouchi :
Application No. 10/314,139 :
Filed: December 9, 2002 :
Atty Docket No. 111287.01 :

This is a decision on the petition, filed November 4, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 23, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2835 for further processing of the request for continued examination under 37 CFR 1.114 filed November 4, 2004.

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

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

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Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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330 UNIVERSITY AVENUE
6TH FLOOR
TORONTO, ON M5G 1R7 CA
CANADA

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OFFICE OF PETITIONS

In re Application of
E. Donald Murray et al.
Application No. 10/314,202
Filed: December 9, 2002
Attorney Docket No. 7865-58 MIS

ON PETITION

This is a decision on the petition filed February 2, 2006, to withdraw the holding of abandonment , which is treated under 37 CFR 1.181(b), in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned January 9, 2006 for failure to pay the issue fee on or before January 6, 2006 as was required by the Notice of Allowance mailed October 6, 2005. The instant petition and this decision on petition precede the mailing of the Notice of Abandonment.

The file record discloses that the Notice of Allowance was mailed to the address of record. However, petitioner contends that it was not received. In support, petitioner indicates that a search of the file jacket revealed that the Notice was not received and submits copies of pages from the docketing system, wherein receipt of the Notice of Allowance would have been entered, had it been received to substantiate the claim. The statement and attachments corroborate non-receipt of the Notice of Allowance.

In view of the facts set forth in the petition, it is concluded that the Notice of Allowance was never received. Accordingly, the holding of abandonment is withdrawn. No petition fee is due and none will be charged.

This application is being forwarded to the Technology Center 1653 for a remailing of the Notice of Allowance and Notice of Allowability.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Keating & Bennett LLP
10400 Eaton Place, Suite 312
Fairfax, VA 22030

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ON PETITION

In re Application of :
Hidetoshi Iwatani, et al. :
Application No. 10/314,270 :
Filed: December 9, 2002 :
Attorney Docket No. 36856.986 :

This is a decision on the petition, filed May 9, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2817 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Keating & Bennett LLP
10400 Eaton Place, Suite 312
Fairfax, VA 22030

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MAY 1 1 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Hidetoshi Iwatani, et al. :
Application No. 10/314,270 :
Filed: December 9, 2002 :
Attorney Docket No. 36856.986 :

This is a decision on the petition, filed May 9, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2817 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/314,293	12/09/2002	Tae Woon Kim	0465-0973P	1352

2292 7590 01/30/2008
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER
MARKOFF, ALEXANDER

ART UNIT	PAPER NUMBER
1792	

NOTIFICATION DATE	DELIVERY MODE
01/30/2008	ELECTRONIC

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

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

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

mailroom@bskb.com

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

wk

Mailed: 1-30-08

In re application of	:	
Tae Woon Kim	:	DECISION ON
Serial No. 10/314,293	:	PETITION
Filed: December 9, 2002	:	
For: Apparatus For Stripping Photoresist And Method Thereof	:	

This is a decision on the PETITION UNDER 37 CFR 1.181 to the Group Director for reconsideration of the restriction/election requirement made final in the Office Action dated October 22, 2007.

On January 22, 2008, the instant petition under 37 CFR 1.181 was filed along with a reply to the Office Action dated October 22, 2007.

DECISION

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

Accordingly, the instant petition is **DISMISSED.**

Jacqueline M. Stone

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

Esther H. Chong
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/314,293	12/09/2002	Tae Woon Kim	0465-0973P	1352

2292 7590 05/30/2008
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER
MARKOFF, ALEXANDER

ART UNIT	PAPER NUMBER
1792	

NOTIFICATION DATE	DELIVERY MODE
05/30/2008	ELECTRONIC

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

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

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

mailroom@bskb.com

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

tm

Mailed: 5-30-08

In re application of	:	
Tae Kim	:	DECISION ON
Serial No. 10/314,293	:	PETITION
Filed: December 9, 2002		:
For: APPARATUS FOR STRIPPING PHOTORESIST AND METHOD THEREOF		

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE RESTRICTION REQUIREMENT mailed July 18, 2007 and made final in the office action mailed October 22, 2007 AND TO WITHDRAW FINALITY of the office action mailed October 22, 2007. This is also a decision on the request for reconsideration of the decision dismissing said petition mailed on January 30, 2008.

On July 18, 2007, a restriction requirement between three groups of inventions was made by the examiner. Petitioner traversed the restriction requirement in a response filed August 6, 2007. The examiner made the requirement final in a final office action mailed October 22, 2007.

On January 22, 2008, a petition under 37 CFR 1.181 was filed along with a reply to the office action dated October 22, 2007 to formally request withdrawal of the restriction requirement and the finality of the October 22, 2007 office action. A decision dismissing that petition on the grounds that it was not timely filed was mailed on January 30, 2008. On February 19, 2008, a request for reconsideration of the decision dismissing the petition was filed.

Petitioner's position for withdrawal of the restriction requirement is that the examiner has not shown that the inventions of Groups I and III are distinct from the invention of Group II, that the examiner's holding that the inventions of Groups I and III are unrelated is incorrect, and that there is no serious burden on the examiner to examine all claims in this application because claims from all of the groups set forth in the restriction requirement had been previously searched and examined. Petitioner's position for withdrawal of the finality of the October 22, 2007 office action is that the office action did not include a response to the substance of all of applicant's arguments set forth in the October 6, 2007 reply to the restriction requirement. Petitioner's position for requesting reconsideration of the decision dismissing the petition as not being timely is that petitions from restriction requirements are governed not just by 37 CFR 1.181, but by 37 CFR 1.181 in conjunction with 37 CFR 1.144 which expressly references 37 CFR 1.181.

DECISION

37 CFR 1.181 states in part:

(a) Petition may be taken to the Director:

(1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

(2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and

(3) To invoke the supervisory authority of the Director in appropriate circumstances. For petitions involving action of the Board of Patent Appeals and Interferences, see § **41.3** of this title.....

(f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

37 CFR 1.144 states:

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

The request for reconsideration of the dismissal of the petition will be addressed first. The petition filed on January 22, 2008 was directed to two issues: 1) withdrawal of the restriction requirement mailed on July 18, 2007 and 2) withdrawal of the finality of the office action mailed on October 22, 2007. As established above, 37 CFR 1.181 states that "any petition filed under this part not filed within two months of the mailing date of the action.....may be dismissed as untimely." Since the request for withdrawal of the finality of the October 22, 2007 office actions falls under the purview of 37 CFR 1.181 and the petition was not timely filed, the decision to dismiss the petition with respect to this issue was proper. As such, the petition remains dismissed with respect to the issue regarding withdrawal of finality.

However, the issue of withdrawal of the restriction requirement falls under the purview of 37 CFR 1.144. Therefore, the petition filed January 22, 2008 with respect to the withdrawal of the restriction requirement will be treated as a petition under 37 CFR 1.144 for this issue. As the petition was filed after requesting reconsideration and the restriction requirement being made final, but not later than appeal, the petition was timely filed with respect to this issue and a decision thereon follows.

In the restriction requirement mailed July 18, 2007, the examiner takes the position that the invention of Group II is related to the inventions of Groups I and III as process and apparatus for its practice.

MPEP 806.05(e) states:

Process and apparatus for its practice can be shown to be distinct inventions, if either or both of the following can be shown: (A) that the process *as claimed* can be practiced by another materially different apparatus or by hand; or (B) that the apparatus *as claimed* can be used to practice another materially different process.

The examiner has shown distinctness with the reasoning that the apparatus could be used in a materially different process such as dishwashing or for the stripping of stationary substrate. Petitioner argues that the apparatus as claimed is usable as a photoresist stripper, not for dishwashing because a dishwasher has no use for a photoresist stripper material and that the assertion that the claimed apparatus could be used for stripping a stationary substrate does not meet the "as claimed" test because it would require eliminating the feature of a stripper storage unit. This argument is not persuasive. It is well settled that method limitations and/or intended use limitations do not distinguish a claimed apparatus over a prior art apparatus. The apparatus of Groups I and III, as claimed, require structure configured to store or dispense photoresist material. This requires structure capable of storing or dispensing such material but does not require photoresist stripper material. Therefore, these inventions have been shown to be distinct.

The examiner has taken the position that the inventions of Group I and Group III are unrelated because the inventions have different designs, modes of operation, and effects.

MPEP 806.06 states:

Inventions as claimed are independent if there is no disclosed relationship between the inventions, that is, they are unconnected in design, operation, and effect. If it can be shown that two or more inventions are independent, and if there would be a serious burden on the examiner if restriction is not required, applicant should be required to restrict the claims presented to one of such independent inventions

Petitioner argues that the inventions of Group I and Group III as claimed both require a stripping bath chamber, a stripper dispensing unit, and an antifoaming dispensing unit and therefore the examiner's holding that the inventions are unrelated is incorrect. As established in MPEP 806.06, inventions are independent only if there is no disclosed relationship between the inventions, that is, they are unconnected in design, operation, and effect. In this case, both groups of invention are directed to structure designed to remove photoresist from a substrate and have in common the components described above. Although the examiner argues that each group of invention has features not required by the other, the claims of each group of invention include the open "comprising" language and therefore are open to features not specifically recited in the claims. For example, the examiner takes the position that the invention of Group I requires storing units and the dispensing unit configured to dispense the antifoaming agent, which is not mixed with the stripper material and that such is not required by the invention of Group III. However, the claims of Group III contain the comprising language and do not otherwise exclude these features, as such, these features are encompassed within the scope of the

claims of Group III. As such, the examiner has failed to properly establish that the inventions are independent.

Petitioner additionally argues that there is no serious burden on the examiner to examine all claims in this application because claims from all three groups of invention have already been searched and examined on their merits.

MPEP 803 states:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

In the instant case, all claims have previously been examined by the examiner and rejected over the same prior art throughout the prosecution of the application which is evidence that a search and examination of the entire application can be made without serious burden.

As the examiner's position that the inventions of Group I and Group III are unrelated is incorrect and evidence exists that search and examination of the entire application can be made without undue burden, the petition to withdraw the restriction requirement is **GRANTED**.

The application is being forwarded to the examiner for consideration of the request for continued examination filed on April 22, 2008 and to rejoin the non-elected claims and prepare a new non-final office action addressing all pending claims.

/JACQUELINE STONE/

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

BIRCH STEWART KOLASCH & BIRCH

PO BOX 747

FALLS CHURCH, VA 22040-0747

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2033 K. STREET NW, SUITE 800
WASHINGTON, DC 20006

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AUG 2 6 2008

OFFICE OF PETITIONS

In re Application of :
FUTA, et al. :
Application No. 10/314,316 :
Filed: December 9, 2002 :
Attorney Docket No. 2002_1554A :

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

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 22, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is GRANTED.

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

Petitioner is advised that the issue fee paid on July 23, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, the signature of Mr. David M. Ovedovitz appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts in accordance with 37 CFR 1.34(a).

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

This application is being referred to Technology Center AU 2131 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

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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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 11/02/09

DATE : October 21, 2009

TO SPE OF : ART UNIT 2431 - SPE William R. Korzuch.

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/314,316 Patent No.: 7,486,789 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Certificates of Correction Branch

(571)272-0483

Thank You For Your Assistance

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

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

Comments: _____

William Korzuch 11/2/09

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

GUSTAV ALLEN RAY
7640 E. MINNEZONA AVE.
SCOTTSDALE, AZ 85251

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FEB 16 2007

OFFICE OF PETITIONS

In re Application of :
Ray :
Application No. 10/314,317 : ON PETITION
Filed: December 9, 2002 :
Attorney Docket No. N/A :
For: A PRINT MEDICUM ASSEMBLY AND A METHOD OF PRODUCING A PRINTED SIGN ASSEMBLY

This is a decision on the petition under 37 CFR 1.137(a), filed December 26, 2006 (certificate of mailing date December 21, 2006), requesting revival of the above-identified application. The petition will be treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment of the above-identified application.

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

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

As a preliminary matter, the correspondence address of record still is:

Gustav Allen Ray
36019 Pansy Road
Winchester, CA 92596

Petitioner should promptly file a change of correspondence address that lists his current address. Until a signed request to change the correspondence address is filed, all future Office mail will be addressed to the Winchester, CA address.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action, mailed April 27, 2005, which set forth an extendable three (3) month period for reply. The Office contended that this application became abandoned on July 28, 2005. A Notice of Abandonment was mailed on February 9, 2006.

Petitioner has filed a petition under 37 CFR 1.137(a), but uses language associated with a petition under 37 CFR 1.137(b) and in addition, asserts a proper reply was filed on "6-27-06". It is presumed that petitioner is asserting that a reply was filed on June 27, 2005, not 2006.

A review of the application file reveals that on December 18, 2006, petitioner filed a copy of an "Amendment and Response". A proper certificate of mailing dated June 27, 2005 was affixed to the "Amendment and Response".

Under 37 CFR 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 CFR 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 CFR 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The "Amendment and Response" bears a proper certificate of mailing, dated June 27, 2005, in compliance with the requirements of 37 CFR 1.8(a)(1) as set forth above. In addition, the person signing the certificate, Gustav Allen Ray, had reasonable basis to expect that the correspondence would be mailed on June 27, 2005. The present petition states that a Office action response was previously filed on "6-27-06".

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the February 9, 2006 Notice of Abandonment is **vacated**.

The $750.00 petition fee submitted with present petition will be refunded via a treasury check that will be scheduled shortly.

Accordingly, the application file will be forwarded to Technology Center A.U. 2853 for consideration of the amendment filed on certificate of mailing date June 27, 2005 and resubmitted on December 18, 2006.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 6

BANNER & WITCOFF
1001 G STREET, N.W.
SUITE 1100
WASHINGTON, D.C. 20001

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MAY 29 2003

OFFICE OF PETITIONS

In re Application of :
Ellen Heber-Katz :
Application No. 10/314,322 : ON PETITION
Filed: December 9, 2002 :
Attorney Docket No. 000486.00016 :

This is a decision on the petition filed April 28, 2003, requesting that the above-identified application be accorded a filing date of December 9, 2002, with page 32 of the specification as a part of the original disclosure of the application.

The application was filed on December 9, 2002 as a divisional application of prior application No. 09/249,155. However, on February 27, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice To File Corrected Application Papers" (Notice) that stated the application had been accorded a filing date, and that page 32 of the specification appears to have been omitted.

In response, on April 28, 2003, a substitute specification including page 32 of the specification was filed with the present petition. Furthermore, petitioners state that page 32 of the specification was submitted with the application papers on December 9, 2002, and that page 32 of the specification was expressly incorporated by reference.

The petition is dismissed.

The mailing of the Notice permits the applicant to either: (1) promptly establish prior receipt in the USPTO of the items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items in a

nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing items were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

In this case, petitioners neither support their assertion that the missing page of specification was actually deposited in the PTO on December 9, 2002, with the other application papers by submitting evidence of deposit of the page on December 9, 2002, nor request a later filing date.

Instead, petitioner seeks to add page 32 of the specification to the present application on the basis that the page is not new matter and is incorporated by reference. However, no petition is necessary for that purpose. An omitted portion from the prior application may be entered by the primary examiner without a petition so long as the portion contain no new matter. See MPEP § 608.02(a).

MPEP 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter... The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), <u>without the need for a petition</u>. (emphasis supplied)

Applicant provided the necessary incorporation by reference statement in the application transmittal letter submitted with the applcaition papers on December 9, 2002.

If applicants desire that page 32 of the specification be added to the application, the appropriate procedure is by way of amendment requesting the entry of the page. Any such amendment should be filed prior to the first action on the merits and will be considered by the primary examiner.

Accordingly, the petition is inappropriate and is subject to dismissal.

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

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 9, 2002.

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

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

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MAR 18 2004

STEPHEN B. MAEBIUS
FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:
David M. Goldenberg	:
Serial No.: 10/314,330	: WITHDRAWAL OF ATTORNEY
Filed: December 9, 2002	:
Attorney Docket No.: 018733-1166	:

This is in response to applicants' attorneys' request, filed February 26, 2004, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.

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

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Paper No. 8

BURNS DOANE SWECKER & MATHIS LLP
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

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JAN 28 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Bellhouse et al.	:	
Application No. 10/314,336	:	
Filed: December 9, 2002	:	
Attorney Docket No. 033267-017	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 10, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed December 23, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 24, 2003. A Notice of Abandonment was mailed on August 24, 2004.

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase

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

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DEC 28 2004

SHAW PITTMAN
IP GROUP
1650 TYSONS BOULEVARD
SUITE 1300
MCLEAN VA 22102

In re Application of	:
Ana Maria Sandino et al	:
Serial No.: 10/314,366	: WITHDRAWAL OF ATTORNEY
Filed: December 9, 2002	:
Attorney Docket No.: DIA-101	:

This is in response to applicants' attorneys' request, filed November 16, 2004, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

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

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

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PILLSBURY WINTHROP SHAW
PITTMAN LLP
P.O. BOX 10500
MCLEAN, VA 22102

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JUL 27 2007

OFFICE OF PETITIONS

In re Application of
Anna Maria SANTIGO, et al
Application No. 10/314,366
Filed: December 9, 2002
Attorney Docket No. DIA-101

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 29, 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 Thomas Cawley Jr. for Michaelle S. Marks on behalf of all attorneys 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 inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There is an outstanding Office action mailed November 17, 2006 that requires a reply by the applicant.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: ANA MARIA SANDINO
SAN DAMIAN 55 DEPTO 83
LAS CONDES, SANTIAGO, CHILE

cc: JAIME SILVA,
SILVA & CIA
HENDAYA 60, 4TH FLOOR
LAS CONDES
SANTIAGO, CHILE

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/314,366	12/09/2002	Ana Maria Sandino	DIA-101

CONFIRMATION NO. 9164

OC000000024926896

28970
PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O. BOX 10500
MCLEAN, VA 22102

Date Mailed: 07/20/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/29/2007.

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

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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ASLAN BAGHDADI
SHAW PITTMAN LLP
1650 TYSONS BOULEVARD
MCLEAN, VA 22102

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SEP 13 2004

OFFICE OF PETITIONS

In re Application of :
Hayes :
Application No. 10/314,368 : ON PETITION
Filed: December 9, 2002 :
Attorney Docket No. HAY-101 :

This decision concerns the March 19, 2003 "Petition in Response to Notice of Omitted Items in a Nonprovisional Application" which, in essence, requests withdrawal of a January 27, 2003 "Notice of Omitted Items in a Nonprovisional Application" for the above-referenced application ("1/27/03 Notice") and is being properly treated as a petition under 37 CFR 1.53.

The petition is **GRANTED.**

The application was filed on December 9, 2002. The 1/27/03 Notice was then mailed, stating that a filing date had been accorded this application, but that Figures 6e, 6f, 8e and 8f described in the specification appeared to have been omitted from the filed application. The petition then followed, asserting that the allegedly omitted figures were filed with the other application papers on December 9, 2002.

The Office has located the drawings for these figures in the sheets of drawings for Figures 6a-d and 8a-d. Apparently, these drawings were overlooked during pre-examination because, while the labels for Figures 6a-d and 8a-d are in bold, those for Figures 6e, 6f, 8e and 8f are in much smaller font size and not in bold.

In view of the above, the petition is granted. The 1/27/03 Notice was mailed in error and is hereby withdrawn.

No petition fee is owed and none was charged to counsel's deposit account.

However, as pointed out in the attached "Notice of Draftsperson's Patent Drawing Review," the labeling of drawings of Figures 6e, 6f, 8e and 8f does not comply with 37 CFR 1.84(l). Applicant is given a 2-month period for submitting replacement drawings with properly labeled figures. This 2-month period is extendable under 37 CFR 1.136(a).

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 9, 2002, using the papers filed on that date; for indicating in the USPTO record that 17 sheets of drawings (including those for Figures 6e, 6f, 8e and 8f) were present on filing; and to await filing of replacement drawings with properly labeled Figures 6e, 6f, 8e and 8f.

Telephone inquiries should be directed to Petitions Attorney RC Tang at (703) 308-0763 (before September 15, 2004), or to the undersigned at (703) 306-5683 (before September 27, 2004) or (571) 272-3203 (after September 27, 2004).

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attachment: Notice of Draftsperson's Patent Drawing Review (7/9/04)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
PO Box 1450
Arlington, VA 22313-1450
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Paper No. 7

Koestner Bertani LLP
18662 MacArthur Blvd.
Suite 400
Irvine, CA 92612

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JUL 0 1 2003

OFFICE OF PETITIONS

In re Application of
Daniel R. Salmonsen et al.
Application No. 10/314,374
Filed: December 5, 2002
Attorney Docket No. 1003. (P009 US)

ON PETITION

This is a decision on the petition under 37 CFR 1.137(f), filed June 4, 2003, which is being treated as a petition under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of a counterpart international application filed on January 31, 2003. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the international application.

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

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

The previous Request and Certification under 35 U.S.C. § 122 (b) (2) (B) (i) has been rescinded. A Replacement Filing Receipt which sets forth the projected publication date of July 31, 2003 accompanies this decision on petition.

The application is being forwarded to Technology Center AU 2123 for examination in due course.

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

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

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

Attachment: Replacement Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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FEB 05 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Richard Spielberger et al :
Application No. 10/314,377 :
Filed: December 6, 2002 :
Attorney Docket No. MICRON.216DV1 :

This is a decision on the petition, filed January 7, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 8, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 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).

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

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FEB 11 2005

OFFICE OF PETITIONS

In re Application of :
Richard K. Spielberger et al :
Application No. 10/314,377 :
Filed: December 6, 2002 :
Attorney Docket No. MICRON.216DV1 :

ON PETITION

This is a decision on the petition, filed February 7, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on September 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 2818 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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Paper No. 4

KOESTNER BERTANI LLP
18662 MACARTHUR BLVD.
SUITE 400
IRVINE, CA 92612

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AUG 1 8 2003

OFFICE OF PETITIONS

In re Application of :
Daniel R. Salmonsen :
Application No. 10/314,383 : DECISION GRANTING PETITION
Filed: December 5, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 1003.P002 US :
(PA-1266

This is a decision on the petition, filed June 4, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on February 25, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

(1) the required reply which is met by the notification of such filing in a foreign country or

under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

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

This application is being forwarded to Technology Center Art Unit 2123 for examination in due course.

Latrice Bond

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

Marianne C. Morgan for

Frances Hicks
Lead Petitions Examiner

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GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
EXCHANGE PLACE
BOSTON, MA 02109-2881

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MAR 19 2007

OFFICE OF PETITIONS

In re Application of

Daniel R. Salmonsen

Application No. 10/314,383

Filed: December 5, 2002

Attorney Docket No. 1003.P002US(PA-1266)

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), November 10, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1400.00 and publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed August 1, 2006. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on November 2, 2006. A Notice of Abandonment was mailed on November 17, 2006.

The issue fee and publication fee were received on November 10, 2006.

Form PTOL-85B, filed November 10, 2006, is noted and made of record.

The application is being directed to the Office of Patent Publications for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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MAIL

Paper No. 16

KENYON & KENYON
1500 K STREET, N.W., SUITE 700
WASHINGTON DC 20005

NOV 04 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Daniel A. Hanson
Application No. 10/314,386
Filed: December 9, 2002
For: **SYSTEM AND METHOD FOR CONTROLLING AND MONITORING A WIRELESS ROAMING CALL**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the petition filed August 3, 2004, which is treated as Petition to Withdraw the Holding of Abandonment pursuant to 37 C.F.R. §1.181. No fee is required.

The petition is **GRANTED.**

The application was abandoned for failure to respond in a timely and effective manner to the non-final Office action mailed November 26, 2003. A Notice of Abandonment was mailed on July 26, 2004.

Petitioner asserts that a proper response was timely filed on February 26, 2004. In support of the petition, Petitioner has submitted, a copy of Applicant's reply and a date-stamped post card receipt which itemized "Response to Office action" evidencing receipt of the response within the United States Patent & Trademark Office on February 26, 2004.

The original correspondence filed was not matched with the application file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the U.S.PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Patent and Trademark Office but not matched with the application file.

In view of the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The application file will be forwarded to the Technology Center's technical support staff for entering the copy of the response submitted with the petition as well as refunding Applicant's deposit account for the petition fee. No fee is required for this type of petition. From there, the file will be forwarded to the examiner for further examination in due course.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202

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OCT 1 4 2004

OFFICE OF PETITIONS

In re Application of :
Hai H. Trieu :
Application No. 10/314,396 :
Filed: December 7, 2002 :
Attorney Docket No. 31132.33 :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed May 28, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen months publication country on December 8, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen months publication country.

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

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

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of September 23, 2004 was mailed on June 14, 2004.

The Terminal Disclaimer accompanying the instant petition is unnecessary as a condition for revival. See 37 CFR 1.137(d). Accordingly, the Terminal Disclaimer will not be processed. In view thereof, the $110 fee submitted therefor is unnecessary and will be refunded to petitioner's deposit account as authorized.

Any inquiries concerning this decision may be directed to Retta Williams at (571) 272-3229.

This application matter is being forwarded to Technology Center Art Unit 3731 for examination in due course.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JONES DAY
222 EAST 41ST STREET
NEW YORK, NY 10017

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JUN 19 2007

OFFICE OF PETITIONS

In re Patent No. 7,175,314	:	
Issue Date: February 13, 2007	:	
Application No. 10/314,428	:	ON PETITION
Filed: December 4, 2002	:	
Attorney Docket No. 018781-009610US	:	

This is a decision on the petition filed January 23, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee). *No certificate of correction will be issued which sets forth an assignee other than Amgen Inc. and Roche Palo Alto LLC, the assignees set forth in the instant request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request, since this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

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

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NIXON & VANDERHYE, PC
1100 N GLEBE ROAD
8TH FLOOR
ARLINGTON VA 22201-4714

COPY MAILED
MAY 05 2005
OFFICE OF PETITIONS

Applicant: Capron et al.
Appl. No.: 10/314,440
Filing Date: December 9, 2002
Title: ADJUVANT COMPOSITION COMPRISING FHA PROTEIN OR A FRAGMENT OF FHA PROTEIN IN ITS FREE FORM
Attorney Docket No.: 960-40
Pub. No.: US 2004/0047867 A1
Pub. Date: March 11, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on May 4, 2004, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application republishes.

Some of the errors are due to poor text, Applicants have been advised to file applications having cleaner text with sufficient clarity and contrast to permit reproduction to avoid errors in the patent application publication process. See 37 CFR 1.52.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

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

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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Patent No. : 6,876,009 B2
Serial No. : 10/314,444
Inventor(s) : Narukawa et al.
Issued : April 5, 2005
Title : **NITRIDE SEMICONDUCTOR DEVICE AND A PROCESS OF MANUFACTURING THE SAME**
Docket No. : **AZU.001**

Re: Request for Certificate of Correction

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

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

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

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

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

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items B and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

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

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

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

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

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

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

VOLENTINE & WHITT PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON VA 20190

ecw

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VOLENTINE & WHITT PLLC
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RESTON VA 20190

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In re Patent No. 6876009	:	
Issue Date: 04/05/2005	:	
Application Number: 10/314444	:	ON PETITION
Filing or 371(c) Date: 12/09/2002	:	
Attorney Docket Number: AZU.001	:	

This is a decision on the petition filed on October 15, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-7-06

TO SPE OF : ART UNIT 1651

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/314453 Patent No.: 7165580

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

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

Please check C of C

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

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

- [x] 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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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11400 BURNET ROAD
AUSTIN TX 78758

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AUG 06 2007

OFFICE OF PETITIONS

In re Application of	:	
Allan	:	
Application No. 10/314,466	:	DECISION ON PETITION
Filed: December 6, 2002	:	
Attorney Docket No. AUS920020487US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 16, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before May 3, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed February 3, 2006. Accordingly, the date of abandonment of this application is May 4, 2006. A Notice of Abandonment was mailed on June 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 payment of the issue fee of $1,500.00 and the publication fee of $300.00 and a completed PTOL-85B, (2) the petition fee of $1,500.00; and (3) a proper statement of unintentional delay.

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 10

Alza Corporation
P.O. Box 7210
Intellectual Property Department
Mountain View, CA 94039-7210

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JUL 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Yechezkel Barenholz, et. al. :
Application No. 10/314,487 :
Filed: December 5, 2002 :
Attorney Docket No. ARC 3226 R1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 23, 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 February 19, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight April 19, 2003. A Notice of Abandonment was mailed June 17, 2004.

In response, petitioner submitted with the instant petition $1,330 for the petition to revive fee, $770 for the basic filing fee, an Oath/Declaration, an Information Disclosure Statement (IDS), a Preliminary Amendment, $130 for the late filing of the Oath/Declaration, $72 in claim fees, and eleven (11) sheets of Drawings containing Figures 1A-15B.

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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SUITE 230
PALO ALTO CA 94303

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OCT 27 2009

OFFICE OF PETITIONS

In re Application of :
Yechezkel Barenholz, et al. :
Application No. 10/314,487 : DECISION ON PETITION
Filed: December 5, 2002 :
Attorney Docket No. 9550-0004 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 23, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed April 19, 2007, which set a shortened statutory period for reply of three (3) months. Accordingly, the application became abandoned on July 20, 2007. A Notice of Abandonment was mailed on November 26, 2007. On July 23, 2009, the present petition was filed. The filing also included a Request for Continued Examination and submission requirement under 37 CFR 1.114; Petition for Extension of Time for 3 months; and Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address.

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 Director may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over two years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on July 20, 2007. 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). Further, statements are required from Alza Corporation and any responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the

revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

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

Extensions of time under 37 CFR 1.136 are available only if asked for "prior to or with the response." In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Therefore, no extension of time fees are due on a petition for revival. In view thereof, the $1,110 extension of time fee submitted with the petition is unnecessary and will be refunded to petitioner's deposit account.

The Power of Attorney has been processed and the correspondence address has been changed accordingly. A copy of the Notice of Acceptance is enclosed.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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

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

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

By Internet: EFS-Web[1]

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Enclosure

[1] www.uspto.gov/ebc/efs help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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
10/314,487	12/05/2002	Yechezkel Barenholz	ARC 3226 R1

CONFIRMATION NO. 9784

POA ACCEPTANCE LETTER

20855
ROBINS & PASTERNAK
1731 EMBARCADERO ROAD
SUITE 230
PALO ALTO, CA 94303

OC000000038476376

Date Mailed: 10/27/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/23/2009.

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.

/sdbrinkley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

ROBINS & PASTERNAK
1731 EMBARCADERO ROAD
SUITE 230
PALO ALTO, CA 94303

In re Application of
Yechezel Barenholz, et al.
Application No. 10/314,487
Filed: December 5, 2002
Attorney Docket No. 9550-0004

ON PETITION

This is a decision in response to the renewed petition, filed December 17, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

A review of the record discloses that this application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed April 19, 2007. A Notice of Abandonment was mailed on November 26, 2007. On July 23, 2009, a petition to revive under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed October 27, 2009. In response, on December 17, 2009, the present petition was filed. The petition includes an explanation of the delay as provide by the attorney of record at the time of abandonment.

This application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." *See* Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

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

This application is being referred to Technology Center AU 1615 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JUL 19 2004

In re Application of
Laura Ann Martin
Application No. 10/314,504
Filed: December 9, 2002
Attorney Docket No. 420710-3

DECISION ON PETITION

This is a decision on the petition to make special filed that was originally filed on February 25, 2004, a copy of which was filed on May 28, 2004. The $130.00 petition fee is being charged to Deposit Account No. 01-2384.

The petition is granted.

The petition to make special is based upon the existence of an actual infringement. A review of the petition shows that all of the requirements established in MPEP § 708.02(II) for a petition on that grounds have been satisfied. Therefore, petitioner is entitled to have this application handled special in accordance with MPEP § 708.02, subsection styled "Handling of Petitions to Make Special".

Accordingly, the examiner will treat this application as special throughout its prosecution. PriorIt is noted that this application has received a first action. Prior to the next action, 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 3727 is being advised of the granting of the instant petition, and will in turn advise the examiner to whom the application is assigned of the special status of this application and the need for future action consistent with this Decision.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner,
Technology Center 3700

John S. Beulick
Armstrong Teasdale LLP
One Metropolitan Square
Suite 2600
St. Louis, MO 63102-2740

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JUL 26 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

John S. Beulick
Armstrong Teasdale LLP
Suite 2600
One Metropolitan Sq.
St. Louis, MO 63102

In re application of Laura Ann Martin Application No. 10/314,504 Filed: December 9, 2002 For: CONTAINER ASSEMBLY	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)**

This is a decision on the petition under 37 C.F.R § 1.102(d) filed February 25, 2004 to make the above-identified application special.

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

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

The petition filed February 25, 2004 meets all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.
Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any,

only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

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

KJD/vdb: 7/20/04

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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CAPITAL CENTER, SUITE 1100
201 NORTH ILLINOIS STREET
INDIANAPOLIS, IN 46204-4220

Mail Date: 04/21/2010

Applicant	: Kazuhiro Yamada	: DECISION ON REQUEST FOR
Patent Number	: 7650630	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/314,520	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/09/2002	: 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.

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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INDIANAPOLIS OFFICE 27879
BRINKS HOFER GILSON & LIONE
CAPITAL CENTER, SUITE 1100
201 NORTH ILLINOIS STREET
INDIANAPOLIS, IN 46204-4220

Mail Date: 05/18/2010

Applicant : Kazuhiro Yamada
Patent Number : 7650630
Issue Date : 01/19/2010
Application No : 10/314,520
Filed : 12/09/2002

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **979** 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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NOV - 2 2005

In re Application of	:	
HAROLD LINDELOF ET AL	:	NOTICE OF WITHDRAWAL
Serial No. 10/314,521	:	FROM ISSUE
Filed: 12/09/2002	:	UNDER 37 CFR 1.313(b)

For: INTELLIGENT AUTONOMOUS SHEET FEEDER FOR THE INFEED OF A PRINTER

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue to permit reopening of prosecution under 37 CFR 1.313.

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

The application is being forwarded to the examiner for action.

Robert Oberleitner, Director
Technology Center 3600

Altera Law Group, LLC
6500 City West Parkway
Suite 100
Minneapolis, MN 55344-7704

cc: Allowed Files, PK3-910
Drafting Branch, PK3-910

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HOLME ROBERTS & OWEN, LLP
299 SOUTH MAIN
SUITE 1800
SALT LAKE CITY UT 84111

In re Application of	:
Carey	: DECISION ON PETITION
Application No. 10/314,522	:
Filed: December 6, 2002	:
Docket No.: 45835-01051	:

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 26, 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 27, 2006. Notice of Abandonment was mailed September 28, 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.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

Cooper & Dunham LLP
1185 Avenue of the Americas
New York, NY 10036

In re Application of	:	
Ben Fan	:	
Application No. 10/314,524	:	NOTICE
Filed: December 9, 2002	:	
Attorney Docket No. 7257/68583		

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 Office of Publications.

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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Paul A. Fattibene
Fattibene and Fattibene
2480 Post Road
Southport CT 06890

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OFFICE OF PETITIONS

In re Application of	:	
Edell et al.	:	
Application No. 10/314,580	:	DECISION ON PETITION
Filed: December 9, 2002	:	
Attorney Dkt No.: P-2459	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 7, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to file a reply to a non-final Office Action mailed December 14, 2005. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on March 15, 2006. A Notice of Abandonment was mailed on June 22, 2006.

This petition is hereby **GRANTED**.

Petitioner submitted a request for a three (3) month extension of time with the instant petition. However, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988) Petitioner's six (6) month maximum extendable period expired on June 15, 2006. Petitioner is ineligible for any extensions of time. Petitioner is entitled to a refund of the previously submitted extension of time fee of $510. Petitioner may request a refund by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

The Office hereby acknowledges the receipt of the amendment submitted with the instant petition.

This application is being forwarded to Technology Center 1600 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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A. Blair Hughes
McDonnell Boehnen Hulbert & Berghoff
32nd Floor
300 S. Wacker Drive
Chicago IL 60606

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OFFICE OF PETITIONS

In re Application of :
Tikart, et al. :
Application No. 10/314,602 :
Filed: December 9, 2002 :
Attorney Docket No. 00-519-F :
For: COPOLYMER OF STYRENE AND MALEIC ANHYDRIDE COMPRISING AN EPOXY RESIN COMPOSITION AND A CO-CROSS LINKING AGENT

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 3, 2004 (certificate of mailing date November 30, 2004), to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-final Office action, mailed May 4, 2004, which set a three month shortened statutory period for reply. Applicants obtained a three month extension of time on October 8, 2004 (certificate of mailing date October 5, 2004). No reply being received, this application became abandoned on November 5, 2004. A Notice of Abandonment was mailed on December 14, 2004.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 11/002,045.

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

The application file is being forwarded to Files Repository.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Roche Diagnostics Corporation
9115 Hague Road
PO Box 50457
Indianapolis, IN 46250-0457

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OFFICE OF PETITIONS

In re Application of	:	
Salamone et al.	:	DECISION GRANTING PETITION
Application No. 10/314,642	:	UNDER 37 CFR 1.78(a)(3)
Filed: March 7, 2003	:	
Attorney Docket No. RDID 00111C US	:	

This is a decision on the petition filed August 22, 2005, which is being treated as a petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/712,525, filed November 14, 2000.[1]

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

[1] Upon filing the instant nonprovisional application, applicant made a reference to nonprovisional Applications, Nos. 09/712,525 and 09/172,525, in the declaration and transmittal letter, respectively. Applicant did not include a reference to either nonprovisional application in the first sentence of the specification following the title or in an ADS. Nevertheless, the Office noted the claim for priority of nonprovisional Application No. 09/172,525. However, it appears that applicant incorrectly referenced nonprovisional Application No. 09/172,525 instead of nonprovisional Application No. 09/712,525. Since the USPTO did not note the claim for priority to nonprovisional Application No. 09/712,525, applicant appropriately filed the instant petition to accept a late claim of priority under 37 CFR 1.78(a)(3).

require additional information where there is a question whether the delay was unintentional

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional Application No. 09/712,525 has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains an adequate statement of unintentional delay.[2] Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional Application No. 09/712,525, filed November 14, 2000, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Christina Tartera Donnell at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

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[2] 37 CFR 1.78(a)(3) requires 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. Because the statement contained in the instant petition varies from the language required by 37 CFR 1.78(a)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.78(a)(3).

This matter is being referred to Technology Center Art Unit 2635 for appropriate action on the amendment filed August 22, 2005, including for consideration by the examiner of applicant's entitlement to claim benefit of priority to the prior-filed nonprovisional Application No. 09/712,525.

Frances Hicks

Frances Hicks
Lead Paralegal
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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MEDTRONIC MINIMED INC.
18000 DEVONSHIRE STREET
NORTHRIDGE CA 91325-1219

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OFFICE OF PETITIONS

In re Application of
Kovelman et al.
Application No. 10/314,653
Filed: December 9, 2002
Attorney Docket No. PF01052 US
For: Insertion Device For An Insertion Set And Method Of Using The Same

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 October 10, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

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

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

The petition does not comply with item (1) above.

A reference to add the prior-filed applications on page one following the first sentence of the

specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

The fee required by 37 CFR 1.78(a)(3)(ii) has been paid, and the petition includes an acceptable statement of unintentional delay.

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

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[1] *Note* 37 CFR 1.121

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 George Dombroske at (571) 272-3283.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Fax: (571) 273-0459

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

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18000 DEVONSHIRE STREET
NORTHRIDGE, CA 91325-1219

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OFFICE OF PETITIONS

In re Application of
Kovelman et al.
Application No. 10/314,653
Filed: December 9, 2002
Attorney Docket No. PF01052 US
For: Insertion Device For An Insertion Set And Method Of Using The Same

DECISION ON PETITION

UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed October 3, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

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 petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an

amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application 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 this application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3283. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 3767 for appropriate action on the amendment filed October 3, 2006, 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.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
on behalf of
Office of Petitions

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration
Conferee

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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/314,653	12/09/2002	3767	1338	PF01052 US	35	46	3

CONFIRMATION NO. 1435

CORRECTED FILING RECEIPT

OC000000022464954

23608
MEDTRONIC MINIMED INC.
18000 DEVONSHIRE STREET
NORTHRIDGE, CA 91325-1219

Date Mailed: 02/12/2007

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)

Paul H. Kovelman, Simi Valley, CA;
Jason H. Safabash, Aliso Viejo, CA;
Susan M. McConnell, Woodland Hills, CA;
April A. Marano, Manhattan Beach, CA;
Frederick C. Houghton, Moorpark, CA;

Assignment For Published Patent Application

MEDTRONIC MINIMED, INC.

Power of Attorney:

Harold Patton–22157
Daniel Latham–30401
Thomas Berry–31736
Stephen Bauer–32192
George Gates III–33500
Curtis Kinghorn–33926
Kenneth Collier–34982
Paul Kovelman–35228
Eric Waldkoetter–36713
Thomas Woods–36726

Domestic Priority data as claimed by applicant

This application is a CIP of 09/839,052 04/20/2001 PAT 6,607,509
which is a CIP of 09/215,356 12/18/1998 PAT 6,293,925
which is a CIP of 09/002,303 12/31/1997 PAT 6,093,172
which is a CIP of 08/795,968 02/05/1997 PAT 5,851,197

Foreign Applications

If Required, Foreign Filing License Granted: 01/15/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/314,653

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Insertion device for an insertion set and method of using the same

Preliminary Class

604

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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BORGWARNER INC.
3850 HAMLIN ROAD
AUBURN HILLS, MI 48326

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SEP 28 2005

OFFICE OF PETITIONS

In re Patent No. 6,767,302	:	
Issue Date: July 27, 2004	:	
Application No. 10/314,692	:	ON PETITION
Filed: December 9, 2002	:	
Attorney Docket No. BW-DKT02133	:	

This is a decision on the petition filed December 13, 2004, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

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 future correspondence solely to the address of record.

Telephone inquiries concerning this matter may be directed to Retta Williams at (571) 272-3229. 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 matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Frances Hicks
Petitions Examiner
Office of Petitions

Mail Certificate of Correction to:
cc: Lynda M. Wood
Brown & Michaels, P.C.
400 M&T Bank Building
118 North Tioga Street
Ithaca, NY 14850-4343

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SCHWEGMAN, LUNDBERG & WOESSNER/Intel
PO BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: Matthew A. Hayduk	: DECISION ON REQUEST FOR
Patent Number	: 7596384	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/314,697	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/09/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **482** 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

LEVINE BAGADE HAN LLP
2400 GENG ROAD, SUITE 120
PALO ALTO CA 94303

In re Application of :

PEREZ, Edward :
Application No. 10/317,714 : DECISION ON PETITION
Filed: December 11, 2002 : TO WITHDRAW
Attorney Docket No. **TSSNNZ00302** : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 20, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by David Levine on behalf of all attorneys of record who are associated with customer No. 40518. All attorneys/agents associated with the Customer Number 40518 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.

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

/Tredelle D. Jackson/
Petitions Examiner
Office of Petitions

cc: **TISSUE ENGINEERING REFRACTION, INC.**
P.O. BOX 61168
PALO ALTO CA 94306

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OFFICE OF PETITIONS

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

In re Application of
Keck, et al.
Application No. 10/314,720
Filed: December 9, 2002
Attorney Docket No. 17868

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 24, 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, April 20, 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. Notice of Abandonment was mailed November 2, 2006.

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

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 non-final Office action is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center 1700 for further processing.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DAVID SILVERSTEIN
ANDOVER-IP-LAW
SUITE 300, 44 PARK STREET
ANDOVER, MA 01810

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FEB 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Laurence E. JUNDA	:	
Application No. 10/314,741	:	DECISION ON PETITION
Filed: December 9, 2002	:	TO WITHDRAW
Attorney Docket No. JUN-001CN	:	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 15, 2009.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted above have been performed (see attached SB83).

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: LAURENCE E. JUNDA
10 MCGREGOR DRIVE
SHERBORN, MA 01770

Attachment: Withdrawal of Attorney or Agent (PTO/SB/83)

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OFFICE OF PETITIONS

Michael S. Bradbury
P.O. Box 2879
Edwards, CO 81632

In re Application of
Michael S. Bradbury
Application No. 10/314,792
Filed: December 9, 2002
Attorney Docket No. None

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 4, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely respond to a Notice to File Corrected Application Papers mailed January 17, 2003. Applicant was given a period of TWO MONTHS from the date of the notice to file an abstract of the technical disclosure. On November 4, 2003, the present petition was filed, along with an abstract.

In view of the above, the application is being referred to the Office of Initial Patent Examination (OIPE) for further processing.

Telephone inquires related to this decision should be directed to the undersigned at (703) 305-9220. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PATENT COUNSEL
SCHLUMBERGER OILFIELD SERVICES
P.O. BOX 2175
HOUSTON, TX 77252-2175

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MAR 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Richard A. Rosthal :
Application No. 10/314,795 : ON PETITION
Filed: December 9, 2002 :
Attorney Docket No. 24.0858 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 12, 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 April 27, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 28, 2004.

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 future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to Technology Center 2800, Art Unit 2862 for further processing.

Retta Williams

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

cc: Kevin P. McEnaney
200 Gillingham Lane
Sugar Land, TX 77478

PTO/SB/64 (09-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) 24.0858

First named inventor: Richard Rosthal

Application No.: 10/314,795 Art Unit: 2862

Filed: 12/09/2002 Examiner: Aurora, Reena

Title: Method and Apparatus for Determining the Presence of a Fracture in an Earth Formation

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee
☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.
☒ Other than small entity – fee $ 1500.00 (37 CFR 1.17(m))

2. Reply and/or fee
A. The reply and/or fee to the above-noted Office action in the form of _____ (identify type of reply):
☐ has been filed previously on _____.
☒ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.
☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PAGE 3/15 * RCVD AT 1/12/2005 5:04:14 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/2 * DNIS:8729306 * CSID:2812858821 * DURATION (mm-ss):04-14

03/31/2005 KRELLEY 00000006 190610 10314795
01 FC:1453 1500.00 DA

PTO/SB/64 (09-04)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Signature	Jan 12, 2005 Date
Kevin P. McEnaney Typed or printed name	46,258 Registration Number, if applicable
200 Gillingham Lane, Sugar Land, TX 77478 Address	281-285-7325 Telephone Number
Address	

Enclosures: ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☒ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (703) 872-9306.

Jan 12, 2005
Date

Signature

KEVIN P. MCENANEY
Typed or printed name of person signing certificate

PAGE 4/15 * RCVD AT 1/12/2005 5:04:14 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/2 * DNIS:8729306 * CSID:2812858821 * DURATION (mm-ss):04-14

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Richard Rosthal et al.	) Attorney Docket No.: 24.0858
	)
	) Group Art Unit: 2862
Serial No.: 10/314,795	)
	) Examiner: Aurora, Reena
Filed: 12/09/2002	)
	)
Title: Method and Apparatus for Determining the Presence of a Fracture in an Earth Foramtion	)
	)

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

STATEMENT OF UNINTENTIONAL ABANDONMENT

Dear Sir:

This statement is to explain the delays that have caused this application to be abandoned. The application was abandoned for failure to respond to an office action dated April 27, 2004. Docketing problems within the office of the assignee led to the failure to properly docket this application for a timely response by July 27, 2004. The docketing errors were not revealed until a recent docket check resulted in the discovery of this application. Upon the discovery of the errors, the attorney has taken steps to promptly prepare a response to the above-identified office letter in the present application. The failure to respond to the office action in the present application was unintentional and was the result of docketing problems in the office of the assignee. A response to the above-identified office letter is enclosed with this petition.

Please charge the fee for this petition and any additional required fee, or credit any excess fee paid, to Deposit Account 19-0610.

Respectfully Submitted,

Date: Jan 12, 2005

Kevin P. McEnaney
Registration No. 46,258

Schlumberger Technology Corporation
Office of Patent Counsel
P. O. Box 2175
Houston, TX 77252-2175
Tel: (281) 285-7325
Fax: (281) 285-8821

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 04

MAR 5 2003

Gary Abelev
BAKER & BOTTS
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

In re Application of:	:	
SELLI, BASILIO	:	
Application No. 10/314,803	:	DECISION ON PETITION
Filed: December 09, 2002	:	TO MAKE SPECIAL
Attorney Docket No.: A35379	:	
073621.0114		

This is a decision on the petition under 37 C.F.R. § 1.102, filed December 09, 2002, to make the above-identified application special.

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

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

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

Accordingly, the petition is granted.

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

If the examiner determines that restriction is necessary, he/she will follow the established telephone practice to resolve the restriction. If applicant elects with traverse the application will be forwarded to the Special Programs Examination unit to vacate this decision, and the application will be taken up by the examiner for action in its regular turn.

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

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that she/he is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. Section 1309.

The petition is granted to the extent indicated.

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

Lissi Mojica Marquis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 7

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JUN 0 9 2003

OFFICE OF PETITIONS

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

In re Application of
Yamonoi, Murata & Aoe
Application No.: 10/314,821
Filed: December 9, 2002
Attorney Docket No.: TI-34015
For: TRACKING ERROR DETECTOR

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed May 6, 2003 (certificate of mailing date May 2, 2003).

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

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time 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 9, 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 May 6, 2003 (certificate of mailing date May 2, 2003), a petition for a two month extension of time and required fee, a declaration executed by 2 of 3 joint inventors, the surcharge, the petition fee, and the instant petition were filed. A declaration of facts of Tommie Chambers, a secretary to the attorney of record, accompanies the petition. Ms. Chambers explains that non-signing joint inventor Takashi Aoe was mailed a copy of the above-identified application, a declaration, and an assignment, but the inventor did not respond to the request that the inventor sign the declaration for the patent application.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks items (1), (2), and (4) 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 FedEx Tracking Statement shows that the package containing the application, declaration, and assignment was delivered to the inventor. However, the declaration, while it does list three inventors, does not list Takashi Aoe. The declaration does not list the proper inventive entity. Thus, it could have been to unclear to Takashi Aoe as to what was expected of him/her. The Office requests that Takashi Aoe be mailed another copy of the application, assignment, and a declaration that sets forth the proper inventive entity -- including Takashi Aoe. If the package is delivered and Takashi Aoe does not respond, then applicants will have shown the inventor's constructive refusal to join.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. As discussed above, the declaration is defective. Koyu Yamanoi has signed as the first inventor, Hironobu Murata has signed as the second inventor, and **Hironobu Murata has signed again as the third inventor. There is no mention of Takashi Aoe.**

Applicants are required to submit a new declaration that lists all three inventors, with the signing inventors executing the new declaration in their respective signature block. The information for Takashi Aoe must be included -- name, residence, country, citizenship, and mailing address. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of Takashi Aoe is REQUIRED. See MPEP 409.03(a).

As to item (4), a clear statement of the inventor's last known address is missing and is required.

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

By mail:	Mail Stop PETITION Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 308-6916 Attn: Office of Petitions
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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Paper No. 11

TEXAS INSTRUMENTS INCORPORATED
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OFFICE OF PETITIONS

In re Application of
Yamonoi, Murata & Aoe
Application No.: 10/314,821
Filed: December 9, 2002
Attorney Docket No.: TI-34015
For: TRACKING ERROR DETECTOR

ON PETITION

This is a decision on the reconsideration petition, filed October 20, 2003 (certificate of mailing date October 17, 2003), under 37 CFR 1.47(a), which will be treated as (1) a petition under 37 CFR 1.47(a), (2) a petition under 37 CFR 1.48(a) to amend the inventive entity by addition of Takashi Aoe, (3) a petition under 37 CFR 1.183, requesting waiver of 37 CFR 1.48(a)(2), which requires a statement from the person being added (Aoe) that the error occurred without deceptive intent, and waiver of 37 CFR 1.48(a)(5), which requires written consent from the assignee.

The reconsideration petition under 37 CFR 1.47(a) is dismissed as moot.

The petition under 37 CFR 1.48(a) to amend the inventive entity is granted.

The petition under 37 CFR 1.183 to waive 37 CFR 1.48(a)(2) and 1.48(a)(5) is granted.

The first declaration, filed on May 6, 2003 set the inventive entity as Koyu Yamanoi and Hironobu Murata. On the same date, petitioners filed a petition under 37 CFR 1.47(a) seeking to add Takashi Aoe without his signature on the declaration. However, once the inventive entity has been set, a petition under 37 CFR 1.48 is required to change it. The undersigned apologizes for failing to address this point in the previous decision, mailed June 9, 2003.

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by: (1) a petition including a statement from *each person being added* and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part; (2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47; (3) the fee set forth in 37 CFR 1.17 (I); and (4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

The instant petition lacks compliance with items (1) and (4).

However, given the facts and circumstances of this case, it is apparent that Takashi Aoe should have been listed as an inventor from the beginning, but due to clerical error, was not listed on the first declaration. The inventors have executed a declaration listing three inventors, including

Takashi Aoe.[1] As for assignee consent, Texas Instruments filed this petition and must agree with the requested change. In the interests of justice, the petition under 37 CFR 1.183 for waiver of 37 CFR 1.48(a)(1) and (a)(4) is granted. The petition under 37 CFR 1.48(a) is granted. Enclosed please find a corrected filing receipt reflecting the addition of Takashi Aoe as a joint inventor.

The reconsideration petition under 37 CFR 1.47(a) is dismissed as moot.

Pursuant to petitioners' authorization, fees totaling $260 ($130 each for a petition under 37 CFR 1.183 and 1.48) will be charged to deposit account No. 20-0668. The Office has already charged the $130 surcharge for the late filing of a declaration, the $950 extension of time fee, and the $40 recordation fee to the same deposit account.

After the mailing of this decision, the application file 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

enclosure: corrected filing receipt

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[1] It is noted that the third named inventor has altered the declaration to list his name as AOE Takashi. The petition refers to the inventor as Takashi Aoe. It appears that the inventor's name is Takashi Aoe, but the inventor has incorrectly modified the declaration. The examiner of record may request a supplemental declaration at some point in the future.

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Thomas H. Close
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

APR 20 2006

In re Application of:	:	
Roger S. Kerr et al	:	DECISION ON PETITION
Application No. 10/314,843	:	UNDER 37 CFR 1.181
Filed: December 9, 2002	:	
Attorney Docket No. 85497THC	:	

This is a decision on the Petition filed March 24, 2006. Petitioners request withdrawal of the finality of the rejection mailed November 17, 2005, and entry of the amendment filed February 21, 2006.

The Petition is denied.

A review of the file evidences that in the amendment filed on September 6, 2005, Applicants added the limitation "wherein the input spacing is different from the output spacing." Applicants maintained the language "parallel disposed optical fibers." The Examiner rejected the claims under 35 USC 112, second paragraph, as indefinite. The Examiner took the position that parallel fibers have to be equally spaced and that specifying that the input spacing is different from the output spacing while requiring the fibers to be parallel does not make sense. The Examiner also maintained the original rejection under 35 USC 102 (b).

Applicant filed an amendment after final rejection on February 21, 2006, changing "parallel" to "adjacent." The Examiner mailed an advisory action on March 13, 2006 stating that the amendment raises new issues and would not be entered, since the limitation of adjacent fibers having input spacing that is different from output spacing would require further searching and consideration.

Petitioners argue that the finality of the rejection should be withdrawn, since the Examiner has not considered the different spacing limitation. Petitioners further argue that the above discussed limitations are not so "vague and indefinite" to totally prevent consideration and that the intended meaning would be clearly ascertainable to the artisan. However, after careful consideration, it should be noted that the limitations are contradictory. It is not understood how the fibers can be parallel and still have input ends and output ends of different spacing. Therefore, it would not have been possible for the Examiner to properly consider both limitations.

Arguments were provided in the amendment filed February 21, 2006, that the specification provides support for fibers that are "generally parallel" and therefore the interpretation of the claim language should not require the fibers to be equally spaced along their entire lengths. However, it should be noted that the specification also discusses "parallel" fibers. It should be further noted that the limitation "parallel" and not "generally parallel" is what is specified in the claim.

Finally, Petitioners argue that the amendment dated February 21, 2006 should be entered since the amendment does not raise new issues. However, it should be noted that the Examiner is correct in indicating that this amendment would raise new issues since adjacent fibers having unequal input and output spacing would require further consideration and search. It should be noted that Applicants' claimed invention was drawn to parallel fibers during the prosecution, as discussed above.

Janice A. Falcone

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

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Thomas H. Close
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester NY 14650-2201

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OCT 0 3 2006

OFFICE OF PETITIONS

In re Application of:
Kerr et al.
Application No.: 10/314,843
Filed: December 9, 2002
For: OPTICAL CONVERTER FORMED FROM FLEXIBLE STRIPS

DECISION DENYING PETITION

This is a decision on the petition filed May 18, 2006, which is being treated as a petition under 37 CFR 1.181(a)(3) requesting that the Director exercise his supervisory authority and overturn the decision of the Director, Technology Center 2800 (Technology Center Director), dated April 20, 2006, which refused to either withdraw the finality of the Office action mailed November 27, 2005, or compel the entry of the amendment after final filed February 21, 2006.

The petition to overturn the decision of the Technology Center Director dated April 20, 2006, is **denied**.

Petitioner seeks reversal of the Technology Center Director's decision of April 20, 2006, on the grounds that the the Office action of November 27, 2005, was improperly made final, and relies *inter alia* on MPEP §§ 706.03, 706.07 in support of his contention that a clear issue must be developed between the examiner and applicant before finality is properly invoked. Petitioner further contends that the contested amendment should be entered in that as the examiner should have properly treated the substantive issues raised by the amendment of September 6, 2005, no new issues are raised by the amendment of February 21, 2006.

The Group Director correctly noted that the final Office action of which petitioner complains had to address the newly added limitation *i.e.*, "where the input spacing is different from the output spacing" for the recited optic fiber ribbons, notwithstanding the previous and retained limitation that required "parallel disposed optical fibers."

37 CFR 1.113 permits the examiner to make the second action on the merits final. MPEP § 706.07(a) indicates that even where a new ground of rejection is entered in that second Office action, it may be still properly made final, when, as here, that new ground is necessitated by applicant's amendment to the claims. Inspection of the final Office action reveals that the new ground of rejection was entered under 35 U.S.C. § 112 , second paragraph, and predicated solely on the:

> "[n]ewly added limitation 'wherein the input spacing is different from the output spacing' in claim [1] lines 8, 9 makes the claim vague and unclear. Claim 1 recites that the fibers are disposed in parallel and parallel fibers have to be equally spaced thus having input spacing that is different from the output spacing does not make sense."

It follows that the Group Director did not clearly err in upholding the finality of the Office action. Petitioner's contention that the requirement in MPEP § 706.07 for the development of a clear issue as a condition of a proper finality was not here satisfied, is simply without merit. To the

contrary, it is difficult to see how the issue could have been more clearly developed by the final Office action. To the extent that petitioner contends that the instant, or any, amendment to the claims can somehow operate, in of itself, to preclude a proper second action final, that contention must fall of its own weight. See 37 CFR 1.113; MPEP 706.06(a). The USPTO has long held that an applicant cannot avoid a proper final rejection merely by filing new claims, or amending old claims which call for new grounds of rejection. See Ex Parte Martin, 104 USPQ 124, 125 ((Supr. Exmr. 1952)("[t]he examiner could not have rejected this claim earlier on that ground because it was applicant's last amendment, dated January 8, 1952, that inserted for the first time the skimming from the surface limitation which the examiner held as based on an insufficient disclosure.")

Given that the Office action was properly made final, 37 CFR 1.116 is controlling on entry *vel non* of the amendment after final filed February 21, 2006. As explained MPEP §§ 714.12, 714.13 entry of the amendment was not a matter of right and, as here, could properly be refused entry by the examiner, for various reasons, including that a proposed amendment raises new issues that would require further consideration or search. In the Advisory Action of March 21, 2006 the examiner noted that the proposed amendment did not clearly place the application in condition for allowance and that the claims as proposed to be amended required further consideration or search.

The Group Director noted petitioner's contention that the specification provided support for generally parallel fibers, but correctly observed that throughout prosecution the claims had always specified the limitation "parallel" without any further qualification, and upheld the examiner's contention that the amendment raised new issues "since adjacent fibers having unequal input and output spacing would further consideration and search." The Group Director further correctly noted that the "claimed invention was drawn to parallel fibers during prosecution." Accordingly the Group Director did not clearly err in upholding the examiner's refusal to enter the amendment as requiring further consideration or search. While petitioner contends that the examiner's alleged new search and consideration issues should have been been performed upon receipt of the amendment of September 6, 2005, that amendment still recited the parallel limitation which was not proposed to be removed until the amendment of February 21, 2006. Since, as noted above, the parallel limitation was recited throughout prosecution, it is not seen, and petitioner has not shown, how the examiner could reasonably have been expected to foresee in November that a total removal of the parallel limitation was forthcoming in February. Petitioner has also not shown why such an amendment could not have been presented in September, 2005. But see 37 CFR 1.116(b)(3).

Petitioner's further complains that the examiner has ignored applicant's other arguments as to how the claims distinguish over the prior art. Petitioner appears to be unaware that a rejection, or the continuation of a rejection, of a claim(s) cannot be reviewed on petition; rather, as explained in MPEP 1201, the mechanism for having the propriety of a given rejection reviewed is by way of appeal before the Board of Patent Appeals and Interferences under 35 U.S.C. § 134 and 37 CFR 1.191. The issues of whether *e.g.*, the examiner properly analyzed the claims in light of the specification disclosure before making the rejection(s), or whether the rejections over prior art were properly maintained relate to the merits of those rejections and such can only be considered on appeal and will not be considered on petition. See 37 CFR 1.181(a); see also Boundy v. U.S. Patent & Trademark Office, 73 USPQ2d 1468 (DC Eva 2004),appeal dismissed, 2004 U.S. App. LEXIS 26384 (Fed. Cir. 2004). It is well settled that the Director will not, on petition, usurp the functions or impinge upon the jurisdiction of the Board of Patent Appeals and Interferences. See In re Dickerson, 299 F.2d 954, 958, 133 USPQ 39, 43 (CCPA 1962); Baylev's Restaurant v. Bailev's of Boston, Inc., 170 USPQ 43, 44 (Comm'r Pat. 1971).

DECISION

For the reasons given above, petitioner has failed to adequately demonstrate reversible error in the decision of the Technology Center Director. The petition is granted to the extent that the decision of the Technology Center Director dated April 20, 2006, has been reviewed but is **denied** as to the request that the aforementioned decision be overturned. The finality of the Office action of November 27, 2005, and the refusal to enter the amendment of February 21, 2006, will not be disturbed.

This decision may be viewed as a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review of the petitionable questions only. See MPEP 1002.02.

This application is being referred to Technology Center 2800 for further processing.

Telephone inquiries related to this decision should be addressed to Petitions Examiner Brian Hearn at (571) 272-3217.

Jay Lucas

Jay Lucas
Deputy Commissioner for
Patent Examination Policy

cp

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OFFICE OF PETITIONS

In re Application of	:	
Satoh et al	:	
Application No. 10/314,846	:	DECISION ON PETITION
Filed: December 9, 2002	:	
Attorney Docket No. TI-34055	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 29, 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 March 19, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 20, 2007. A Notice of Abandonment was mailed June 25, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuation, (2) the petition fee of $1,540.00, and (3) an adequate statement of unintentional delay.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 11/858,052, filed September 19, 2007.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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Mail Date: 04/21/2010

Applicant	: Donald Allan Schultz	: DECISION ON REQUEST FOR
Patent Number	: 7616666	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/314,849	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/09/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1307** 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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MAR 11 2005

Technology Center 2100

Aaron A. Weiss
HULSEY, GRETHER & FORTKORT LLP
8911 N. Capital of Texas Hwy., Suite 3200
Austin, TX 78759

In re Application of:
William H. Rice
Application No. 10/314,853
Filed: December 09, 2002
For: SYSTEM AND METHOD FOR DISTRIBUTED NETWORK MONITORING FOR STEGANOGRAPHIC MESSAGES

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed September 27, 2004.

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

The request filed September 27, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

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

cc: William H. Rice
78 Pascal Lane
Austin, TX 78748

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CHICAGO, IL 60606-1080

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FEB 25 2004

OFFICE OF PETITIONS

In re Application of	:
Matthias Ramm et al	:
Application No. 10/314,858	: DECISION ON PETITION
Filed: December 9, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 9793822-0184	:

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 17, 2004, to withdraw the above-identified application from issue.

The petition is **dismissed as moot**.

A petition under 37 CFR 1.313(c)(2) is only appropriate where an applicant seeks to withdraw an application from issue for the purpose of consideration of a request for continued examination (RCE) and submission pursuant to the provisions of 37 CFR 1.114 ***after payment of the issue fee***. In the instant case, there is no indication that the issue fee in reply to the Notice of Allowance of December 16, 2003 has been submitted nor is there any indication that petitioner has filed an RCE which would effectively withdraw an application from issue prior to payment of the issue fee for the purpose of consideration of a submission. *Note* MPEP 706.07(h), IX. After Allowance or Quayle Action.

Therefore, the filing of a petition to withdraw this application from issue under 37 CFR 1.313(c)(2) is inappropriate at this time. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue.

Any questions concerning this decision may be directed to the undersigned at (703) 305-8680.

After receipt of the application file in the Office of Petitions, the application file will be returned to Technology Center AU 1775 for consideration of this petition as one under 37 CFR 1.313(a) (prior to payment of the issue fee) and for appropriate action on the concurrently filed Information Disclosure Statement.[1]

Frances Hicks

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

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[1] A petition to withdraw from issue will not stay the period for timely submission of a reply to an outstanding Office action. Failure to timely reply to an outstanding Office action will result in the abandonment of the application.

MAR 1 8 2004 PATENT & TRADEMARK OFFICE

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (703) 746-4000

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections or use Block 1)

26263 7590 12/16/2003

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

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

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

David R. Metzger (Depositor's name)
(Signature)
March 16, 2004 (Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/314,858	12/09/2002	Matthias Ramm	9793822-0184	2484

TITLE OF INVENTION: CHARGE SEPARATION TYPE HETEROJUNCTION STRUCTURE AND MANUFACTURING METHOD THEREFOR

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1330	$300	$1630	03/16/2004

EXAMINER	ART UNIT	CLASS-SUBCLASS
TURNER, ARCHENE A	1775	428-408000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

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

1 Sonnenschein, nath ~~& Rosenthal LLP~~
2
3

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

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Sony Corporation Tokyo, Japan
Research Institute of Innovative Technology for the Earth Kyoto, Japan

Please check the appropriate assignee category or categories (will not be printed on the patent); ☐ individual ☒ corporation or other private group entity ☐ government

4a. The following fee(s) are enclosed:
☒ Issue Fee
☒ Publication Fee
☒ Advance Order - # of Copies _____

4b. Payment of Fee(s):
☒ A check in the amount of the fee(s) is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☒ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number 19-3140 (enclose an extra copy of this form). any deficiency

Director for Patents is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

(Authorized Signature) (Date) 3-16-04

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

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

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02 FC:1504 300.00 OP
03 FC:8001 6.00 OP

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AUG 1 2 2005

TECHNOLOGY CENTER 3600

PILLSBURY WINTHROP SHAW
PITTMAN, LLP
P.O. BOX 10500
MC LEAN, VA 22102

In re application of
Sharda Hebbar, et al
Application No. 10/314,863
Filed: December 9, 2002
For: METHOD AND APPARATUS FOR MANAGING INFORMATION AND COMMUNICATIONS RELATED TO MUNICIPAL BONDS AND OTHER SECURITIES

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

This is in response to the renewed petition filed on March 9, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

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

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

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

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
571-272-6619

RAR/dcg: 8/8/05

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Thomas J. Perkowski, Esq., P.C.
Soundview Plaza
1266 East Main Street
Stamford CT 06902

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OFFICE OF PETITIONS

In re Application of	:	
Reuven Bakalash et al.	:	
Application No. 10/314,868	:	ON PETITION
Filed: December 9, 2002	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 13, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed August 1, 2007, which set a shortened statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on November 2, 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 the issue fee; (2) the petition fee of $1,540; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

The application file is being referred to the Office of Patent Publication.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

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IRVINE, CA 92604

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OFFICE OF PETITIONS

In re Application of	:	
Sherjil Ahmed et al	:	
Application No. 10/314,873	:	ON PETITION
Filed: December 9, 2002	:	
Attorney Docket No. COMET.008C	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 3, 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)." No additional fee is required with any renewed petition. Petitioner is advised that this is **not** a final agency action decision.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed March 25, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 26, 2003.

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

All the requirements being met. However, the petition lacks the signature of the second inventor. 37 CFR 1.33 (b) states that 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 not of record who acts in a representative capacity under provisions of § 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.

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

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

By hand: Customer Window located at:
U.S. Patent and Trademark Office
220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

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

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.[1]

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

cc: ADEEL AHMED
QUARTIC LLC
P.O. BOX 54545
IRVINE, CA 92619-4545

[1] Effective September 27, 2004, the phone number will be 571-272-3220.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 9

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OFFICE OF PETITIONS

In re Application of	:	
Sherjil Ahmed et al	:	
Application No. 10/314,873	:	ON PETITION
Filed: December 9, 2002	:	
Attorney Docket No. COMET.008C	:	

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

The petition is GRANTED.

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

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

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

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OFFICE OF PETITIONS

In re Application of
Schachar
Application No.10/314,889
Filed: December 9, 2002
Attorney Docket No. PRES06-00268

: DECISION GRANTING PTA REQUEST

This decision is in response ot applicant's "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" timely[1] filed on December 31, 2004 requesting that the Office adjust the PTA determination from a determination of zero (0) days to a determination of eighteen (18) days.

Applicant's request for reconsideration is **GRANTED to the extent herein indicated.** The Office will adjust the PAIR calculation to reflect that the determination at the time of the mailing of the notice of allowance is **fifteen** (15) days rather than the zero day determination.

Applicant asserts that the Office erred in the determination of PTA of zero days. Applicants assert that the Office delayed in not acting within 14 months of the filing date of the application , a 44 day delay by the USPTO. In addition, applicant asserts that he delayed a period of 26 days for the submission of a noncompliant amendment. Accordingly, applicants assert that the correct amount of PTA is 18 days.

Applicant's arguments are not persuasive. The Office agrees with the forty-four days of Office delay for failing to submit an action under 35 USC 132 within fourteen months of the filing date of the application. See 37 CFR 1.702(a)(1). However, the calculated amount of applicant delay by the applicants is not accurate. First, the Office notes that Applicants responded to the non-final rejection mailed March 24, 2004 on June 28, 2004, a four day delay.[2] See 37 CFR 1.704(b). In addition, applicants response was incomplete and the Office mailed a letter finding the response informal or nonresponsive. Applicant replied to the letter on July 23, 2004. Accordingly,

[1] Issue fee paid on 12-31-2004.

[2] The Office notes that the date of reply to the non-final rejection is the date of receipt in the Office. The date of the certificate of mailing is not considered for determining the response date for PTA purposes. See 37 CFR 1.703(f).

applicant failed to engage in reasonable efforts to conclude prosecution of the application for a period of twenty-five days.[3] See 37 CFR 1.704(c)(7). In addition, the Office notes that a one hundred and forty-five day reduction was assessed for applicant's late response to the Notice to File Missing Parts.[4] However, a review of the file history reflects that the Office submitted the notice to require the payment of the application fee. The record (RAM) reflects that the payment was received on May 30, 2003 rather than November 17, 2003.[5] Accordingly, the applicants did reply within the three month requirement of 37 CFR 1.704(b) and therefore no failure to engage in reasonable efforts to conclude prosecution of the application occurred as it relates to the reply to the Notice to file Missing Parts.

The Office acknowledges the payment of the $200.00 fee for the request for reconsideration of patent term adjustment.

After the mailing of the notice of allowance, the Office will forward the application to the Office of Patent Publications for a prompt issuance of the patent. Any delay in issuance of the patent beyond four months of the payment of the issue fee and other requirements being satisfied will be reflected in the issue notification letter that occurs approximately three weeks prior to the issuance of the patent.

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 for

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

cc: Copy of adjusted PTA

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[3]The delay began on June 29, 2005, day after the initial response, and ended on July 23, 2005, date of response correcting the omission.

[4]The Office notes that the delay began on June 26, 2003 the day after the three month reply to the Notice to File Missing Partes and ended on NOVEMBER 17, 2003, the date that applicants alleged to have responded to the Notice to File Missing Parts.

[5]PALM reflects that payment was received on September 5, 2003.

UNITED STATES PATENT AND TRADEMARK OFFICE

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THOMAS J PERKOWSKI ESQ PC
SOUNDVIEW PLAZA
1266 EAST MAIN STREET
STAMFORD CT 06902

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APR 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Bakalash, et al.	:	
Application No. 10/314,904	:	ON PETITION
Filed: December 9, 2002	:	
Attorney Docket No. 122-007USANG0	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed February 21, 2007, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment, in view of petitioner's statement that no Notice of Allowance was received and belief that no petition fee was required.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a reply in response to the Notice of Allowance mailed March 8, 2006. This Office action set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on June 9, 2006. A Notice of Abandonment was mailed on January 23, 2007.

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing **all** replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3]

Here, the docket record submitted on petition only shows mail received from February 9, 2006 to March 20, 2006. As set forth above, to establish that the March 8, 2006 Office action was not received, petitioner would need to submit his docket records showing all of his replies docketed for the due date of June 8, 2006.

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. 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 37 CFR 1.17(m); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

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

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[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

THOMAS J PERKOWSKI ESQ PC
SOUNDVIEW PLAZA
1266 EAST MAIN STREET
STAMFORD CT 06902

In re Application of	:	
Bakalash, et al.	:	
Application No. 10/314,904	:	ON PETITION
Filed: December 9, 2002	:	
Attorney Docket No. 122-007USANG0	:	

This is a decision on the renewed petition to revive under 37 CFR 1.137(b), filed April 13, 2007, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment, in view of petitioner's statement that no Notice of Allowance was received.

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

The holding of abandonment is **WITHDRAWN**.

The above-identified application became abandoned for failure to timely file a reply in response to the Notice of Allowance mailed March 8, 2006. This Office action set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on June 9, 2006. A Notice of Abandonment was mailed on January 23, 2007. Applicants filed a petition to withdraw the holding of abandonment on February 21, 2007. However, the petition was dismissed in a decision mailed on April 2, 2007.

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3]

With the instant petition, petitioner has submitted a copy of a docket report showing all his replies docketed for the days before and after June 8, 2006. No reply is shown docketed for the date of June 8, 2006, supporting the conclusion that the March 8, 2006 Notice of Allowance was not received.

The matter is being forwarded to Group Art Unit 2165 for re-mailing of the Notice of Allowance, setting a new period for reply.

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

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II).

[3] Id.

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

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AUG 22 2003

OFFICE OF PETITIONS

In re Application of LARRY S. HORWITZ Application No. 10/314,906 Filed: December 9, 2002 For: SYSTEMS AND METHODS FOR WAVEFRONT MEASUREMENT	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), submitted on June 16, 2003.

The petition is **granted**.

Petitioner has shown that Larry S. Horwitz, the non-signing inventor, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the Statement of Facts of Mark J. Gallagher establishes that the inventor was presented with the application papers, including the specification, claims and drawings, but declined the request that he sign the declaration. In addition, petitioner has shown that Ophthonix, Inc. has a proprietary interest in the above-identified application with the copy of the "Employee Proprietary Information and Inventions Agreement," showing that the inventor had an obligation to assign any patent rights to the Company. Petitioner has authorized payment of the petition fee. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and demonstrated that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file will be forwarded to the Technology Center 2800 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Larry S. Horwitz, Ph.D.
146 12th Street
Seal Beach, CA 90740

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AUG 22 2003

OFFICE OF PETITIONS

In re Application of :
LARRY S. HORWITZ :
Application No. 10/314,906 : LETTER
Filed: December 9, 2002 :
For: SYSTEMS AND METHODS FOR :
WAVEFRONT MEASUREMENT :

Dear Dr. Horwitz:

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

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GEORGE R CORRIGAN
5 BRIARCLIFF COURT
APPLETON, WI 54915

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APR 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Jerry Winiecki	:	
Application No. 10/314,912	:	ON PETITION
Filed: December 9, 2002	:	
Attorney Docket No. CMD 219	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 31, 2005, to revive the above-identified application.

The petition is **dismissed**.

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

This application became abandoned for failure to timely reply within three months to the non-final Office action August 25, 2004. Accordingly, this application became abandoned on November 26, 2004. A Notice of Abandonment was mailed on March 16, 2005.

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 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, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

The instant petition does not satisfy requirement (2) above.

The required $750.00 petition fee (small entity) has not been submitted. Petitioner has submitted $250.00 towards the petition fee, however, an additional $500.00 is required. As such, the petition can not be reviewed on the merits at this time and must be dismissed.

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

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

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

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

Telephone inquiries should be directed to the undersigned at (571)272-3228.

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

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DEC 2 2 2005

OFFICE OF PETITIONS

Bryan Murphy
13 Caulfield Road
Woburn MA 01801

In re Application of	:	
MURPHY	:	DECISION
Application No. 10/314,919	:	ON PETITION
Filed: December 9, 2003	:	
Attorney Docket No. 022-0501 US	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final office action mailed November 10, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 11, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of Amendment A; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final action of November 10, 2003 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand 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 the undersigned at (571) 272-4787.

The application matter is being forwarded to Technology Center Art Unit 1724.

Denise Pothier
Petitions Examiner
Office of Petitions

Cc: Nina L. Pearlmutter
Nashoba Legal
P.O. Box 4004
Westford, MA 01886

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
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Paper No.

Moser Patterson & Sheridan LLP
3040 Post Oak Blvd
Suite 1500
Houston, TX 77056

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SEP 24 2004

OFFICE OF PETITIONS

In re Application of	:	
Jose Antonio Lazaro Villa	:	
Application No. 10/314,948	:	ON PETITION
Filed: December 10, 2002	:	
Attorney Docket No. Q73129	:	

This is a decision on the "PETITION TO EXPUNGE PURSUANT TO 37 CFR §1.59(B) FOR RESPONSE TO OFFICE ACTION, DATED OCTOBER 7, 2003, FILED ON APRIL 7, 2004," filed May 17, 2004. This paper is properly treated as a petition requesting under 37 CFR 1.183 suspension of the requirements of 37 CFR 1.59(a) such that a paper not filed pursuant to 724.02 be expunged from this file.

Applicant requests that the U.S. Patent and Trademark Office expunge and return a Second Response to the Office action mailed October 7, 2003, that was filed on April 7, 2004. Applicant states that they were unaware that the First Response was filed and therefore unintentionally filed the Second Response. Applicant contends that failing to obtain the return of the Second Response would cause irreparable harm to the Applicant since the First Response adequately addressed all issues raised by the Examiner in the October 7, 2003 Office action.

Procedures set forth in MPEP 724 are designed to enable the Office to ensure as complete a patent file wrapper as possible 37 CFR 1.59(a)(1) provides, in pertinent part, that information in an application will not be expunged and returned, except as provided on petition.

Petitioner's arguments have been considered, and it has been determined that expungement and return of the Second Response is not appropriate. Justice does not require waiver of the rules to permit the requested material to be expunged. The Office policy

is to maintain a complete record of the prosecution history. Any conflicting statements made in the unentered reply filed April 7, 2004, should, if necessary, be addressed on the record.

Accordingly, the petition is **DISMISSED AS INAPPROPRIATE**.

Any request for reconsideration must be filed within **TWO (2) MONTHS** from the mail date of this decision. This period for reply is not extendable under § 1.136(a).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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FLESHNER & KIM, LLP
P.O. BOX 221200
CHANTILLY, VA 20153

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OFFICE OF PETITIONS

In re Application of	:	
Myoung et al.	:	DECISION ON
Application No. 10/314,952	:	PETITION
Filed: December 10, 2002	:	
Atty Docket No. K-0477	:	

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION AND REQUEST FOR REMAIL OF NOTICE OF ALLOWANCE PURSUANT TO MPEP §711.03(c)(I)(A)," filed May 23, 2006.

The above-identified application became abandoned for failure to timely pay the issue fee and publication fee within the three-month statutory period set in the Notice of Allowance and Fee(s) Due mailed February 25, 2005. This period is not extendable. No reply having been received, the above-identified application became abandoned on May 26, 2005. A courtesy Notice of Abandonment was mailed on May 18, 2006.

The instant petition was filed on the basis that the attorney of record never received the Notice of Allowance. Petitioner states that the Notice of Allowance was mailed to an old street address and not the address on file at the USPTO and included on the Power of Attorney filed with the application.

However, a review of the record reveals that the Notice of Allowance was mailed to the correspondence address of record in effect on the day of mailing. The record indicates that the correspondence address was as of March 7, 2003 changed to the address of customer No. 34610. This address is different than

the address indicated on the previously filed declaration[1]. Despite the inconsistency, it was appropriate for the Office to use this address as the correspondence address. As stated in MPEP 403:

> As the Office will not recognize more than one correspondence address (37 CFR 1.33(a)), any inconsistencies between the correspondence address resulting from a Customer Number being provided in an application for the correspondence address and any other correspondence address provided in that application would be resolved in favour of the address of the Customer Number.

The Notice of Allowance was returned to the Office on March 11, 2005. As the Office action was mailed to the correct correspondence address and no change of correspondence address had been previously filed, the Technology Center technical support staff did not re-mail the Notice. Subsequent to the mailing of the Notice of Allowance, applicants filed a change of correspondence address returning the address associated with the customer number to that shown on the declaration.

In view thereof, abandonment for failure to timely respond to the Notice of Allowance mailed to the correspondence address of record was proper. Non-receipt of the Notice of Allowance is properly attributed to the failure to earlier file a change of correspondence address. Under the circumstances, withdrawal of the holding of abandonment is not warranted.

The petition under § 1.181 is **DISMISSED**.

Any request for reconsideration must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are not permitted. See 1.181(f).

Alternatively, applicants may seek revival under the provisions of 37 CFR 1.137. Such a request should include a cover letter entitled "Petition under 37 C.F.R. § 1.137(a)" or "Petition under 37 C.F.R. § 1.137(b)," as appropriate.

---

[1] It is noted that a substitute declaration was filed on July 28, 2003, but as asserted therewith, only to correct the first name of one of the inventors.

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

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FLESHNER & KIM, LLP
P.O. BOX 221200
CHANTILLY, VA 20153

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OFFICE OF PETITIONS

In re Application of	:	
Myoung et al.	:	DECISION ON
Application No. 10/314,952	:	PETITION
Filed: December 10, 2002	:	
Attorney Docket No. K-0477	:	

This is a decision on the RENEWED PETITION TO WITHDRAW HOLDING OF BASED ON FAILURE TO RECEIVE OFFICE ACTION AND REQUEST FOR REMAIL OF NOTICE OF ALLOWANCE PURSUANT TO MPEP §711.03(c)(I)(A) filed July 31, 2006. This decision also responds to the PETITION UNDER 37 C.F.R. §1.137(a) OR PETITION UNDER 37 C.F.R. §1.137(b) received by facsimile transmission on July 31, 2006 (and another copy on August 1, 2006).

The above-identified application became abandoned effective May 26, 2005 for failure to timely pay the issue fee and publication fee within the three-month statutory period set in the Notice of Allowance and Fee(s) Due mailed February 25, 2005. On May 23, 2006, applicants filed the initial petition on the basis that the attorney of record never received the Notice of Allowance. By decision mailed July 10, 2006, the petition was dismissed.

On renewed petition, applicants have submitted additional argument to support a conclusion that withdrawal of the holding of abandonment is warranted. Petitioner's evidence and arguments have been carefully considered, and it is determined that under the facts and circumstances of this case, withdrawal of the holding of abandonment is warranted.

In view thereof, the notice of abandonment mailed May 18, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Since consideration of petitioner's alternative petitions under 1.137 is unnecessary, the petition fees are subject to refund. The petition fee of $1,500 for consideration under § 1.137(b) is being refunded to the Deposit Account, as authorized. Although the fee was authorized for consideration under § 1.137(a), no fee was charged.

Technology Center AU 2629 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment. Applicants have submitted the required replies to the Notice of Allowance (and Notice of Allowability). No re-mailing of the Notices is necessary. After withdrawal of the holding of abandonment, the application should be forwarded to the Publishing Division for processing into a patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

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

In re Application of
FINCO et al.
Application No.: 10/314,996
Attorney Docket No.: Q73361

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

This is a decision on the petition under 37 CFR 1.137(b), filed May 02, 2005 to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37(a)(1), accompanied by the fee required by 37 CFR 41.20(b)(2), runs from the date of this decision.

The above-identified application became abandoned for failure to reply in a timely manner to the Final Office action mailed October 20, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned at midnight on January 20, 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 Notice of Appeal, (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Office action of October 20, 2005 is 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 of reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the three month extension of time ($1020) submitted with the petition on May 02, 2005 was subsequent to the maximum extendable period of reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application is being referred to Board of Patent Appeals and Interferences.

Telephone inquiries concerning this decision should be directed to Cynthia Kratz at (571) 272-3286 or in her absence, the undersigned at (571) 272-3217.

Frances Hicks for
Brian Hearn
Petitions Examiner
Office of Petitions

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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

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AUG 01 2007

OFFICE OF PETITIONS

In re Application of
William R. Saunders, et al.
Application No. 10/314,998
Filed: December 10, 2002
Attorney Docket No. 10551/396

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 22, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 3, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed October 3, 2006. Accordingly, the date of abandonment of this application is January 4, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400 and the publication fee of $300, (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22320

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OFFICE OF PETITIONS

In re Application of
Kiyoshi Miyashita
Application No. 10/315,012
Filed: December 10, 2002
Attorney Docket No. 036830.03

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed February 26, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 28, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred to to Technology Center AU 2851 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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1940 DUKE STREET
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of :
Angela Carati et al :
Application No. 10/315,022 : DECISION GRANTING PETITION
Filed: December 10, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 231684USOXDIV :

This is a decision on the petition, filed April 28, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

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 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 1755 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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

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OFFICE OF PETITIONS

In re Application of	:
Hiroaki Asano et al	:
Application No. 10/315,036	: DECISION GRANTING PETITION
Filed: December 10, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 461-123	:

This is a decision on the petition, filed October 12, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 2834 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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March 31, 2004

Jeffri A. Kaminski
Venable
P. O. Box 34385
Washington, DC 20043-9998

In re application of:
Michael Krieger DECISION ON PETITION
Serial No.: 10/315,061
Filed: December 10, 2002
For: MICROPROCESSOR CONTROLLED BOOSTER APPARATUS WITH POLARITY PROTECTION

This is a decision on the petition received on February 12, 2003, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice of Missing Parts of Application mailed January 14, 2003. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned March 18, 2003. The notice of abandonment was mailed on February 9, 2004.

On February 12, 2003, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney responded to the Notice of Missing Parts on February 12, 2003.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice of Missing Parts on February 12, 2003.

The petition is hereby Granted.

The application has been completed for release to Technology Center 2838.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day (703) 308-3640.

Doshie Day

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

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Juan Carlos A. Marquez
c/o Stites & Harbison PLLC
1199 North Fairfax Street
Suite 900
Alexandria, VA 22314-1437

Mail Date: 04/21/2010

Applicant	: Satoshi Hirata	: DECISION ON REQUEST FOR
Patent Number	: 7660676	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/315,143	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/10/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **469** 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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CORPORATION
P.O. BOX 506
MERRIFIELD, VA 22116

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OFFICE OF PETITIONS

In re Application of	:	
Chien-Ming Chen	:	
Application No. 10/315,154	:	ON PETITION
Filed: December 10, 2002	:	
Attorney Docket No. FTCP0091USA	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 25, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed November 2, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 3, 2006.

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

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

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria, VA 22313-1404

Mail Date: 04/21/2010

Applicant	: Masahiro Ozawa	: DECISION ON REQUEST FOR
Patent Number	: 7626743	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/315,189	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/10/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1133** 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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C/O RABIN & BERDO PC
1101 14TH STREET, NW, SUITE 500
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Takashi Kimura et al	:	
Application No. 10/315,191	:	DECISION GRANTING PETITION
Filed: December 10, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. ROH-068	:	

This is a decision on the petition, filed August 30, 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 15, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2828 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Date : September 7, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of **Application No. 10/315,191**

Applicant(s) : Takashi Kimura et al
Application No. : 10/315,191
Filed : December 10, 2002

The above-identified application has been assigned Patent No. 6,947,462 and an issue date of September 20, 2005.

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

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of September 20, 2005:

"All reference to Patent No. 6,947,462 to Takashi Kimura et al of Japan for SEMICONDUCTOR LASER AND METHOD OF PRODUCING THE SAME appearing in the Official Gazette of September 20, 2005 should be deleted since no patent was granted."

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

cc: Paul Harrison; Crystal Park 3, Suite 441 (FAX-703-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

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Paper No. 7

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L STREET NW
WASHINGTON, DC 20037-1526

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JUN 0 6 2003

OFFICE OF PETITIONS

In re Application of :
Shiki, et al. :
Application No. 10/318,200 : ON PETITION
Filed: December 10, 2002 :
Atty. Dkt. No.: 03020.0316/P316 :

This decision in response to the "PETITION FOR WITHDRAWAL OF NOTICE OF OMITTED ITEM" filed March 27, 2003 in response to the "Notice to File Missing Parts of Nonprovisional Application ("Notice") mailed January 27, 2003. This petition is also being treated as a petition to accord the instant application a filing date of December 10, 2002.

The application was filed December 10, 2002. The Notice mailed January 27, 2003 by the Office of Initial Patent Examination notified applicant, *inter alia*, that the application had been accorded a filing date but that Page 18 of the specification appeared to have been omitted.

Petitioner argues that the Notice should be withdrawn as the application as deposited included 75 pages of specification, including page 18. Petitioner has included as proof of mailing and proof of receipt of the page of specification in question a return postcard date stamped by the Office on December 10, 2002. Petitioner has also supplied a copy of the original page 18 of the specification purportedly filed with the application on December 10, 2002.

The original page 18 of the specification submitted with the application papers has not been located. However, in view of the evidence presented, the Notice with respect to page 18 of the specification is hereby WITHDRAWN and the petition to accord the application a filing date of December 10, 2002 is GRANTED.

Since the original page 18 of the specification cannot be located in the Office, the copy supplied with the instant petition will be used for examination purposes.

The petition fee of $130.00 submitted with the instant petition is unnecessary. Petitioner may request a refund by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of December 10, 2002.

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Alesia M. Brown
Petitions Attorney
Office of Petitions

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JJGJR.: 11-04

Paper No: __

YU-CHUN LIU
235 CHUNG-HO
BOX 8-24
TAIPEI HSIEN
TAIWAN–ROC

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NOV 0 5 2004

OFFICE OF PETITIONS

In re Application of
Liu :
Application No. 10/315,206 :
Filing Date: 10 December, 2002
Attorney Docket No. (None) :

This is a decision on the petition filed on 1 September, 2004, to revive the instant application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance and Issue Fee Due mailed on 8 April, 2004, with reply due under a non-extendable deadline on or before 8 July, 2004;

- Notice of Abandonment was mailed on 9 August, 2004;

- with the instant petition (with fee), Petitioner paid the Issue and Publication Fees (the reply), and made the statement of unintentional delay (the statement), and so has satisfied the regulatory requirements of the petition

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

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

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

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

Allegations as to Unintentional Delay

As indicated above, the Petitioner has satisfied the requirements of the regulation.

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

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

CONCLUSION

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

The file is released to Publications Branch to be processed into a patent.

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

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

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OFFICE OF PETITIONS

ON PETITION

In re Application of
William A. Mallow et al
Application No. 10/315,208
Filed: December 10, 2002
Attorney Docket No. 111440

This is a decision on the petition, filed September 20, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 23, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

This matter will be forwarded to Technology Center AU 1764 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Date : September 24, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of Application No. 10/315,208

Applicant(s) : William A. Mallow et al
Application No. : 10/315,208
Filed : December 10, 2002

The above-identified application has been assigned Patent No. 6,803,352 and an issue date of October 12, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of : October 12, 2004.

> "All reference to Patent No. 6,803,352 to William A. Mallow et al of for EASILY DISPENSED, ANTI-TRACTION, MOBILITY DENIAL SYSTEM appearing in the Official Gazette of October 12, 2004 should be deleted since no patent was granted."

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

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

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Davidson, Berquist, Jackson & Gowdey, LLP
4300 Wilson Boulevard, 7th Floor
Arlington, VA 22203

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OFFICE OF PETITIONS

In re Application of	:	
Susan Kidd et al.	:	
Application No. 10/315,214	:	DECISION ON PETITION
Filed: December 10, 2002	:	TO WITHDRAW
Attorney Docket No. 2615-0030	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 16, 2007.

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

A review of the file record indicates that the power of attorney to Brian Siritzky and all attorneys/agents associated with customer number 42624 has been revoked by the assignee of the patent application on March 12, 2007. 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.

A final rejection was mailed on March 12, 2007. Failure to timely reply will result in the abandonment of this application.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Charles A. Weiss
Kenyon & Kenyon, LLP
One Broadway
New York, NY 10004

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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
10/315,214	12/10/2002	Susan O. Kidd	2615-0030

CONFIRMATION NO. 2715

OC000000023898465

42624
DAVIDSON BERQUIST JACKSON & GOWDEY LLP
4300 WILSON BLVD., 7TH FLOOR
ARLINGTON, VA 22203

Date Mailed: 05/16/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/12/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Kimberly Gravinet
Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

31 MAY 2005

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NIXON & VANDERHYE
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714

In re Application of:	:	
LUNDSTRUM, Anders, et al.	:	DECISION ON PETITION
Application No.: 10/315,251	:	
Filing Date: 10 December 2002	:	
Attorney's Docket No.: 2466-109	:	
For: A METHOD AND AN APPARATUS FOR REDUCING SIGNALLING TRAFFIC IN A TELE-COMMUNICATIONS SYSTEM	:	

This decision is issued in response to applicants' "Request/Petition Concerning National Stage Status And Priority Claim" filed 16 June 2004. The petition, treated herein under 37 CFR 1.182, requests that the present application be treated as a U.S. National Phase of PCT/SE01/01366 filed under 35 U.S.C. 371 and that the priority data in the filing receipt be corrected. Deposit Account No 14-1140 will be charged the required petition fee.[1]

BACKGROUND

On 10 December 2004, applicants filed the present U.S. application. The application was treated as an application filed under 35 U.S.C. 111(a).

On 05 February 2003, the USPTO issued a filing receipt. The filing receipt did not list any domestic or foreign priority information for this application.

On 15 March 2003, applicants filed a request for a corrected filing receipt seeking to correct the filing receipt so as to included priority claims to PCT/SE01/01366 and Swedish application SE 0002290-5. On 19 March 2003, the USPTO dismissed the request for corrected filing receipt for the stated reason that the applications to which priority was claimed were filed over a year prior to the filing of the present application.

On 15 April 2003, applicant filed a second request for correction of the filing receipt, which was dismissed by the USPTO on 21 April 2003 for the same reason as the previous request.

On 15 May 2003, applicant filed a third request for a corrected filing receipt.

[1] Applicants' alternative petition for revival under 37 CFR 1.137(b) is treated in a separate decision mailed concurrently herewith.

On 08 July 2003, the USPTO issued a corrected filing receipt. This filing receipt included a reference to Swedish application number 0002290-5, although the filing date for this application was incorrectly identified as 19 May 2002. The filing receipt did not reference the PCT application.

On 14 July 2003, applicant filed another request for corrected filing receipt seeking to have a reference to the PCT application added. The USPTO dismissed this request on 29 July 2003 for the reason that the PCT application was not filed within one year of the present application.

On 16 June 2004, applicant filed the petition considered herein. The petition seeks to have the present application treated as a national stage application of PCT/SE01/01366 or, in the alternative, for a national stage file to be created and the international application revived.

DISCUSSION

1. Petition To Convert:

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.495(g):

> The documents and fees submitted ... must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371, otherwise the submission will be considered as being made under 35 U.S.C. 111.

In addition, section 1893.03(a) of the MPEP states the following:

> If there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a).

The materials filed by applicants to initiate this application included a transmittal letter that expressly stated that the submission was an "Application under 37 CFR 1.53(b)." In addition, the submission did not include payment of the basic national fee, as would have been required in a national stage filing. The use of this transmittal letter and the failure to include the basic national fee are inconsistent with the intent to enter the national stage under 35 U.S.C. 371. Accordingly, the filed application was properly treated as a filing under 35 U.S.C. 111(a).

Because the application was properly treated under 35 U.S.C. 111(a), the petition to convert the application to a national stage under 35 U.S.C. 371 is only grantable if accompanied by a showing of sufficient cause for such a conversion (i.e., the loss of patent rights or lack of other available remedies). Applicants here have not made such a showing. For example, one available remedy for applicants is the granting of applicants' alternative petition for revival of the international application; this will provide applicants with the desired national stage

application, without requiring conversion of the present application. Moreover, a proper submission herein under 37 CFR 1.78 could render the present application a continuation of the international application, with a benefit claim to the earlier Swedish application, as desired by applicants.

Based on the above, conversion of the present application to a national stage under 35 U.S.C. 371 is not appropriate.

It is noted that, because the application in its present condition is not a continuation of the international application or a national stage of the international application, any reference in the filing receipt to the international application or the Swedish priority application would be inappropriate in that such applications were filed more than one year prior to the filing date of the present application. The filing receipt herein, which referenced these applications (using an incorrect filing date for the Swedish application), is therefore appropriately vacated.

2. Petition For Revival

Applicants have submitted an alternative petition for revival under 37 CFR 1.137(b), seeking to revive the international application and create a national stage application under 35 U.S.C. 371. Based on this alternative request, a U.S. national stage file has been created and assigned U.S. Application No. 10/533,685. In a separate decision concurrently issued in the national stage application, applicants' petition for revival has been granted.

CONCLUSION

Applicants' petition to convert the application from an application filed under 35 U.S.C. 111(a) to a national stage application under 35 U.S.C. 371 is **DISMISSED** without prejudice. Processing of this application under 35 U.S.C. 111(a) will continue.

Any request for reconsideration of this decision on the merits must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any such request should be entitled "Renewed Petition Under 37 CFR 1.182." No additional petition fee is required.

The filing receipt issued herein is **VACATED**. A corrected filing receipt is issued herewith which does not include any foreign priority or continuity information. For applicants to obtain benefit of the international application and the priority application in the present application, a proper submission under 37 CFR 1.78 must be submitted to render the present application a continuation of the international application.

As noted above, in a separate decision issued in the U.S. national stage application (10/533,685), applicants' alternative petition for revival under 37 CFR 1.137(b) has been **GRANTED**.

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

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

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Commissioner for Patents
United States Patent and Trademark Office
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MAY 2 3 2007

PRAXAIR, INC.
LAW DEPARTMENT - M1 557
39 OLD RIDGEBURY ROAD
DANBURY CT 06810-5113

In re Application of: LEWIS, STEVEN A. Serial No.: 10/315,261 Filed: Dec. 10, 2002 Docket: D-21274-2 Title: POLISHING SILICON WAFERS	DECISION ON PETITION TO WITHDRAW NON-FINAL OFFICE ACTION

This is a decision on the petition filed on Apr. 13, 2007 by which petitioner respectfully requests withdrawal of the non-final Office action of Nov. 16, 2006. The petition is being considered pursuant to 37 CFR 1.181.

The petition is **DISMISSED**.

The record shows that:

1) On Jul. 1, 2005, the examiner issued a non-final Office action rejecting all of the pending claims 29-47.
2) On Oct. 31, 2005, the petitioner filed a response to the non-final Office action with no amendments to the claims.
3) On Jan. 25, 2006, the examiner issued a final Office action and maintained the grounds of rejection in the non-final Office action of Jul. 1, 2005.
4) On Jul. 27, 2006, the petitioner filed an appeal brief.
5) On Nov. 16, 2006, in response to the appeal brief, the examiner reopened prosecution of the application and issued a new non-final Office action.
6) On Apr. 13, 2007, the petitioner filed a response to the non-final Office action of Nov. 16, 2006.
7) On Apr. 13, 2007, the petitioner filed the current request to withdraw the non-final Office action of Nov. 16, 2006.

Discussion and analysis

M.P.E.P. 1207.04 Reopening of Prosecution After Appeal [R-3] states:

> The examiner may, with approval from the supervisory patent examiner, reopen prosecution to enter a new ground of rejection after appellant's brief or reply brief has been filed. The Office action containing a new ground of rejection may be made final if the new ground of rejection was (A) necessitated by amendment, or (B) based on information presented in an information disclosure statement under 37 CFR 1.97(c) where no

statement under 37 CFR 1.97(e) was filed. See MPEP § 706.07(a). >Any after final amendment or affidavit or other evidence that was not entered before must be entered and considered on the merits.<

A review of the records reveals that the examiner included a new ground of rejection in the non-final Office action of Nov. 16, 2006. The examiner now rejects claims 33, 38, 40 and 46 on page 3 of the non-final Office action of Nov. 16, 2006 under 35 U.S.C. 112 1st paragraph because there is no support in the original disclosure for the claimed range of belt thickness. The examiner states that the claimed ranges lie outside of the lower limit of belt thickness specified in the amended claims. The final Office action dated Jan. 25, 2006 only rejected claims 39-47 under 35 U.S.C. 112 1st paragraph. The non-final Office action dated Nov. 16, 2006 now rejects claims 33 and 38-47 under 35 U.S.C. 112 1st paragraph. Because the examiner now includes a rejection of claims 33 and 38, not necessitated by applicant's amendment, the action was made non-final. The supervisory patent examiner's approval was inadvertently omitted from the non-final Office action dated Nov. 16, 2006.

In view of the record, the issuance of the non-final Office action dated Nov. 16, 2006 to include new grounds of rejection to claims 33 and 38 is considered proper. Petitioner's request to have the non-final Office action dated Nov. 16, 2006 withdrawn is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Any inquiry regarding this decision should be directed to Marc Jimenez, Training Quality Assurance Specialist, at (571) 272-4530.

The petition is dismissed.

Frederick R. Schmidt, Director
Technology Center 3700

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IBM Corporation / IP Law N50/040-4
1701 North Street
Endicott NY 13760

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OFFICE OF PETITIONS

In re Application of	:	
Zeller et al.	:	
Application No. 10/315264	:	
Filing or 371(c) Date: 12/09/2002	:	ON PETITION
Attorney Docket Number:	:	
LOT920020029US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 16, 2007, to revive the above-identified application. The delay in treating this petition is regretted.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 22, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is February 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 a Request for Continued Examination (RCE) and fee, and the submission required by 37 CFR 1.114; (2) the petition fee; and (3) a proper statement of unintentional delay.

The address given on the petition differs from the address of record application file; however, the application file does not indicate a change of address has been filed in this case. 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 the undersigned at (571) 272-3232.

This application is being referred to Technology Center AU 2161 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.

Derek L. Woods
Attorney
Office of Petitions

CC: HUNTER E. WEBB
75 STATE STREET
ALBANY, NY 12207

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Commissioner for Patents
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Alexandria, VA 22313-1450
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STUART T. LANGLEY, ESQ.
HOGAN & HARTSON
SUITE 1500
1200 17TH STREET
DENVER, CO 80202

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DEC 0 8 2004

OFFICE OF PETITIONS

In re Application of
Tapesh Yadav et al
Application No. 10/315,272
Filed: December 10, 2002
Attorney Docket No. A17 DIV(2)

: 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 October 1, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to 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 10, 20021, and was pending at the time of filing of the instant petition. A reference to 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 prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to 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 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 applicants are 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 Wan Laymon at (517) 272-3220.

This matter is being referred to Technology Center Art Unit 1754 for appropriate action on the amendment filed October 1, 2004, consideration of the IDS filed October 22, 2004, and for processing the request for continuation examination (RCE) and consideration of the amendment filed November 15, 2004, including consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Foley and Lardner, LLP
Suite 500
3000 K Street NW
Washington, DC 20007

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AUG 27 2008

OFFICE OF PETITIONS

In re Application of	:	
Tapesh Yadav et al.	:	
Application No. 10/315,272	:	DECISION ON PETITION
Filed: December 10, 2002	:	TO WITHDRAW
Attorney Docket No. 037768-0138	:	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 15, 2008.

The request is **moot because a revocation of power of attorney has been previously filed**.

A review of the file record indicates that the power of attorney to Stephen B. Maebius and all attorneys/agents associated with customer number 22428 has been revoked by the assignee of the patent application on July 2, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: PPG Industries Inc.
Intellectual Property Dept.
One PPG Place
Pittsburgh, PA 15272

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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NOV 26 2004

In re Application of Milo R. Novotny Serial No. 10/315,278 Filed: December 9, 2002 For: CONSTANT FORCE GOLF SWING TRAINING DEVICE, METHOD OF SWING PLANE TRAINING AND INTERNET OPERATION	:	DECISION ON PETITION TO MAKE SPECIAL

Applicant's petition, filed September 9, 2004, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

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(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Jacques M. Dulin, Esq.
Innovation Law Group
271 S. 7th Avenue, Suite 24
Sequim, WA 98382-3652

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/13/06

TO SPE OF : ART UNIT 3637

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/315290**__ Patent No.: **6968789**

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

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

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

Certificates of Correction Branch

703-308-9390 ext. 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: _____

Jose V. Chen
Primary Examiner

SPE **Art Unit** 3637

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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ANSEL M. SCHWARTZ
SUITE 304
201 N. CRAIG STREET
PITTSBURGH, PA 15213

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JUN 3 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Perlin, Kenneth	:	
Application No. 10/315,292	:	ON PETITION
Filed: December 9, 2002	:	
Attorney Docket No. NYU-8	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 11, 2004, to revive the above-identified application. The original petition was filed on April 30, 2004, but incorrectly listed application no. 10/315,292.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to submit the formal drawings, the issue fee and the publication fee in a timely manner in reply to the Notice of Allowability and Notice of Allowance mailed January 12, 2004. Accordingly, the above-identified application became abandoned on April 13, 2004. A Notice of Abandonment was mailed on June 10, 2004.

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

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

---

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

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

The instant petition lacks item (1). The USPTO acknowledges payment of the issue fee and the publication fee. However, as listed on the Notice of Allowability sent on January 12, 2004, corrected drawings were also required, which have not yet been received. Accordingly, the above-identified application cannot be revived until the corrected drawings have been submitted.

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

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

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the existing Customer Window located at:

2011 South Clark Place
Crystal Plaza 1 Lobby
Room 1B03
Arlington, VA 22202

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

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

Liana Chase

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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ANSEL M. SCHWARTZ
201 N. CRAIG STREET
SUITE 304
PITTSBURGH, PA 15213

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OFFICE OF PETITIONS

In re Application of	:	
Perlin, Kenneth	:	
Application No. 10/315,292	:	ON PETITION
Filed: December 9, 2002	:	
Attorney Docket No. NYU-8	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed July 15, 2004, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS TX 75202

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JUN 11 2007

OFFICE OF PETITIONS

In re Patent No. 6,831,317 :
Issue Date : December 14, 2004 :
Application No. 10/315,307 : DECISION ON PETITION
Filed: December 10, 2002 :
Attorney Docket No. 5774.60 :

This is a decision on the petition filed March 8, 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**.

Petitioner has submitted a $400.00 petition fee. Pursuant to petitioner's request $270.00 is being refunded. The certificate of correction pursuant 37 CFR 1.20 (a) fee is $100.00 and the processing fee pursuant to 37 CFR 1.17(i) is $130.00. A petition fee is no longer required.

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

Charlema R. Grant

Charlema Grant
Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

September 14, 2004

John F. McKenna
Cesari and McKenna
88 Black Falcon Ave.
Boston, MA 02210-2414

In re application of:
Robert Ian Hedley et al.
Serial No.: 10/315,331
Filed: December 10, 2002
For: Access Device

In response to the petition received on February 9, 2004, to withdraw the holding of abandonment in the above application.

The decision is moot in reference to the Abandonment Withdrawal Notice issued on May 12, 2004.

Telephone inquiries concerning this application may be directed to Doshie E. Day (703) 308-3640.

Doshie Day

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20071212

DATE : December 12, 2007

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction on Patent No.: 6854804 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:

SPE: Eduardo Robert **Art Unit** 3733

UNITED STATES PATENT AND TRADEMARK OFFICE

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MOSER PATTERSON & SHERIDAN
3040 POST OAK BLVD., SUITE 1500
HOUSTON, TX 77056-6582

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DEC 29 2005

OFFICE OF PETITIONS

In re Application of :
Kevin M. Schwartz et al :
Application No. 10/315,374 :
Filed: December 10, 2002 :
Attorney Docket No. WEAT/0434.P1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed October 28, 2005, to withdraw the holding of abandonment for the above-identified application.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to reply in a timely manner to the non-final Office action mailed

The above-identified application was held abandoned for failure to reply in a timely manner to the non-final Office action mailed March 10, 2005, which set a shortened statutory period for reply of three (3) months. A Notice of Abandonment was mailed on September 30, 2005.

The petition asserts non-receipt of the March 10, 2005 Office action and requests withdrawal of the holding of abandonment in this application.

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

1. a statement from the practitioner:

   (A) stating that the Office action was not received by the practitioner;
   (B) attesting, by referencing the docket record in (2) below, that a search of the relevant file jacket and docket records indicates that the Office action was not received; and

2. a copy of the docket record where the allegedly non-receipt Office action would have been entered had it been received.

The petition meets the above requirements and is thus granted.

Further, a review of the file record discloses that, on June 30, 2003, a power of attorney by

assignee and change of address was filed. On November 10, 2003, a notice of acceptance of the power of attorney was mailed. However, it appears that, at the time of processing the address for the new power of attorney, the Office entered the address as 3400 Post Oak Road, rather than as 3040 Post Oak Road. Therefore, although there is no indication that the non-final Office action of March 10, 2005 was ever returned to the USPTO as undeliverable, there is an irregularity in the mailing of the Office action to the correct address. Office records now reflect the correct mailing address.

The holding of abandonment in this application is hereby withdrawn, and the September 30, 2005 Notice of Abandonment vacated.

This matter is being referred to Technology Center AU 1712 for remailing of the non-final Office action of March 10, 2005.

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

Frances Hicks
Lead 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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MOSER, PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BLVD.
SUITE 1500
HOUSTON TX 77056-6582

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AUG 0 8 2007

OFFICE OF PETITIONS

In re Patent No. 7,205,262 :
Issued: April 17, 2007 :
Application No. 10/315,374 : ON PETITION
Filed: December 12, 2002 :
Attorney Docket Number: WEAT/0434.P1 :

This is a decision on the petition, filed May 18, 2007 under 37 CFR 3.81(b)[1], to correct the assignee's name on the front of the Patent.

The petition is **GRANTED**.

Petitioner states that the name of the assignee was incorrectly noted on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct name of the assignee, CLEARWATER INTERNATIONAL, LLC, on the front page of the Letters Patent.

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

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

---

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

Office assignment records however, reflect that CLEARWATER INTERNATIONAL, LLC is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

The petition fee and the fee for the certificate of correction have been properly posted to the finance records for this patent.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This file is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball

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

R. Keith Harrison
2139 E. Bert Kouns
Shreveport, LA 71105

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AUG 23 2004
OFFICE OF PETITIONS

In re Application of
Bobby E. Harrell
Application No. 10/315,381
Filed: December 10, 2002
Attorney Docket No. 1033

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed July 27, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on December 31, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of

such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

This application is being forwarded to Technology Center Art Unit 3700 to await receipt of an Appeal Brief.

Marianne E. Jenkins

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KELLY K. KORDZIK, WINSTEAD SECHREST &
MINICK P.C.
P.O. BOX 50784
1201 MAIN STREET
DALLAS TX 75250-0784

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JAN 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Richard K. Klein et al	:	
Application No. 10/315,393	:	ON PETITION
Filed: December 9, 2002	:	
Attorney Docket No. H0770/2606P	:	

This is a decision on the petition under 37 CFR 1.137(a), filed September 12, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely pay the issue fee and publication fee on or before April 19, 2006 in reply to the Notice of Allowance mailed Janaury 19, 2006.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of the issue fee and publication fee; (2) the petition fee of $500 ; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

This application is being referred to Patent Publication.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Sara M. Current
Legal Department
M-495
PO Box 1926
Spartanburg, SC 29304

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SEP 15 2004

OFFICE OF PETITIONS

In re Application of

Goineau, et al.

Application No. 10/315,409

Filed: December 9, 2002

Attorney Docket No. 5504-1

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), August 19, 2004, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1330 and the publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed May 17, 2004. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on August 18, 2004.

The issue fee of $1330.00 and publication fee of $300.00 were received on August 19, 2004.

The application is being forwarded to the Office of Patent Publications for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/29/05

TO SPE OF : ART UNIT 3739

SUBJECT : Request for Certificate of Correction on Patent No.: 6866678

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

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

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

NEXT-TO-LAST REQUEST:
INSERT — RESIDING — AFTER "TFEL"?

DE
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:

Does Not Read properly —
will Accept — Residing — after panel on Line 67

SPE

3739
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 6,866,678 B2
DATED : 3/15/2005
INVENTOR(S) : SHENDEROVA,et al

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

Page 1, field (73), replace [Interbational] with International A

Page 2, left column, line 48, replace [He-ne] with He-Ne A

Page 2, left column, line 52, replace [He-ne] with He-Ne

Page 2, right column, line 31, replace [Near-ir] with Near-IR

Page 2, right column, line 49, replace [Nasa] with NASA

Page 3, left column, line 2, replace [Nm] with nm

Column 8, line 55, delete [(e.g. doped silicon based)]

Column 11, line 18, replace [last the] with the last A

Column 17, line 31, replace [TFEL a] with a TFEL

Column 21, line 10, replace [on] with one

Column 21, line 15, replace [produce] with produces

Column 23, line 38, replace [claim 26] with claim 36 C

VOTE Column 23, line 43, delete [comprises at least ong of], replace [on] with one C

Column 24, line 27 replace [TEEL] with TFEL C

Column 24, line 28 replace [that doped] with that is doped A

Column 24, line 66, insert residing after "TFEL"

Column 24, line 68, insert ; at the end of the line. A

MAILING ADDRESS OF SENDER:
CUSTOMER NUMBER 24337
Miller Patent Services
2500 Dockery Lane
Raleigh, NC 27606

PATENT NO. 6,866,678

No. of additional copies

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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CATALYST LAW GROUP, APC
9710 SCRANTON ROAD, SUITE S-170
SAN DIEGO CA 92121

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JUL 0 6 2006
OFFICE OF PETITIONS

In re Application of :
Douglas B. McCreery :
Application No. 10/315,421 :
Filed: December 10, 2002 :
Attorney Docket No. 8044-002-US :

ON PETITION

This is a decision on the petition, filed May 15, 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 August 15, 2005. Accordingly, a Notice of Abandonment was mailed April 13, 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 August 15, 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 August 15, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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CATALYST LAW GROUP, APC
9710 SCRANTON ROAD, SUITE S-170
SAN DIEGO CA 92121

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OFFICE OF PETITIONS

In re Application of
Douglas B. McCreery
Application No. 10/315,421
Filed: December 10, 2002
Attorney Docket No. 8044-002-US

ON PETITION

This is a decision on the renewed petition, filed July 17, 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 August 15, 2005. Accordingly, a Notice of Abandonment was mailed April 13, 2006. A petition to revive filed May 15, 2006 was dismissed in a decision mailed July 6, 2006 because the amendment filed did not prima facie place the application in condition for allowance.

Comes now petitioner with the instant renewed petition, a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

Even though a Final Office Action was mailed September 18, 2006, prior to a decision being issued to revive this application from its abandoned status, this matter is being referred to Technology Center 3766 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
Senior Petitions Attorney
Office of Petitions

---

[1]A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

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

(2) the petition fee required by 37 CFR 1.17(l);

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

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

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MAR 25 2009

OFFICE OF PETITIONS

LOWE HAUPTMAN HAM & BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA VA 22314

In re Application of	:	
Tareq Abduljalil Albahri	:	
Application No. 10/315,446	:	DECISION ON PETITION
Filed: December 8, 2002	:	
Attorney Docket No. 3348D-0059	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 26, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed August 3, 2007, is 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). Since the $555.00 extension of time fee submitted with the petition on February 26, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card account.

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

This application is being referred to Technology Center AU 1648 for appropriate action by the Examiner in the normal course of business on the reply received February 26, 2009.

Karen Creasy
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
186 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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AUG 1 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Stern et al.	:	
Application No. 10/315,469	:	DECISION ON PETITION
Filed: December 10, 2002	:	
Attorney Docket No. 2002P15777US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 25, 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 August 7, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A two-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 January 8, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 2174 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.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: Siemens Corporation
Attn: Elsa Keller, Legal Administrator
170 Wood Avenue South
Iselin, NJ 08830

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080229

DATE : March 03, 2008

TO SPE OF : ART UNIT 2189

SUBJECT : Request for Certificate of Correction on Patent No.: 7,080,225

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:

SPE: Reginald G. Bragdon Art Unit 2189

REGINALD BRAGDON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

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ROBERT R. RICHARDSON, P.S.
P.O. BOX 2677
SILVERDALE, WA 98383-2677

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Deano Perlatti :
Application No. 10/315,484 :
Filed: December 9, 2002 :
Attorney Docket No. SETA-1-1001 :

This is a decision on the petition under 37 CFR 1.313 (c)(2), filed May 23, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 30, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3736 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Wan Laymon
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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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

www.uspto.gov

Date : May 23, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Deano Perlatti
Application No. : 10/315,484
Filed : December 9, 2002

The above-identified application has been assigned Patent No. 6,896,649 and an issue date of May 24, 2005.

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

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of May 24, 2005:

> **"All reference to Patent No. 6,896,649 to Deano Perlatti of Bainbridge Island, WA for ISOLATION CHAMBER appearing in the Official Gazette of May 24, 2005 should be deleted since no patent was granted."**

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

cc: Paul Harrison; Crystal Park 3, Suite 441 (FAX-703-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

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OFFICE OF PETITIONS

In re Application of	:	
Ario et al.	:	DECISION ON PETITION
Application No. 10/315,505	:	UNDER 37 CFR 1.137(b)
Filed: December 10, 2002	:	
Attorney Docket No. 53505US007	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 20, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on April 30, 2004, for failure to pay the issue fee and the publication fee as required by the Notice of Allowance and Fee(s) Due, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed on September 1, 2004.

Deposit Account 13-3723 will be charged the $1,330.00 petition fee, the $300.00 publication fee, and the $9.00 advance order of three copies, as authorized by petitioner.

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

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (888) 786-0101.

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

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

Paper No. None

MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY and POPEO, P.C.
One Financial Center
Boston MA 02111

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OFFICE OF PETITIONS

In re Application of :
Daniel Preston :
Application No. 10/315,510 :
Filed: December 9, 2002 :
Attorney Docket Number: 24487-013 :
Title: RAM AIR PARACHUTE CANOPY :
WITH TRAPEZOIDAL CELLS :

DECISION ON PETITION UNDER
37 C.F.R. §1.78(a)(6)

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed on October 8, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed application number 60/341,053, filed on December 7, 2001, set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR § 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR §§ 1.78(a)(6), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed application.

The instant pending nonprovisional application was filed on December 9, 2002, and was pending at the time of filing of the instant petition. While a reference to the prior-filed application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the unexecuted declaration filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR § 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(6)[1]. In the instant case, the Office noted the claim for priority of the prior-filed applications in the declaration filed with the application, as shown by their inclusion on the filing receipt.

In view of the above, the $1370 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

This application is being forwarded to Technology Center Art Unit 3641 for appropriate action on the amendment submitted concurrently with this petition, including consideration by the examiner of the claim under 35 U.S.C. §119 and 37 CFR §1.78(a)(4) for the benefit of the prior-filed application.

On October 12, 2004, the Office received a "Revocation and Appointment of Attorney and Change of Correspondence Address." The power of attorney is not acceptable since compliance with 37 C.F.R. §3.73(b) has not been satisfied. A blank "Statement under 37 C.F.R. §3.73(b)" is enclosed for Petitioner's convenience. In view of the non-acceptance of the power of attorney, a courtesy copy of this decision is being mailed to Petitioner herein. However, until compliance with 37 C.F.R. §3.73(b) has been satisfied, all future correspondence will continue to be mailed to the above-noted address of record.

Frances Hicks

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

cc: Bourque & Associates P.A.
835 Hanover St., Suite 301
Manchester, NH 03104

Encl. Statement under 37 C.F.R. §3.73(b)

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1 *Note* MPEP 201.11 (III)(D) , pages 200-59 and 200-60 (Rev. 2. May 2004) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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Paper No. 05042004

KLARQUIST SPARKMAN, LLP
One World Trade Center
Suite 1600
121 S.W. Salmon Street
Portland OR 97204

In re Application of	:	
Warren M. Farnworth et al.	:	WITHDRAWAL FROM ISSUE
Application No.: 10/315,511	:	*37 CFR 1.313*
Filed: December 9, 2002	:	
For: **NANOTUBE SEMICONDUCTOR DEVICES AND**	:	
METHODS FOR MAKING THE SAME	:	

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 from issue because of unpatentability of at least one claim.

The US Patent and Trademark Office records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Fee(s) Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Fee(s) Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Any question regarding this communication should be directed to Wael Fahmy, Supervisory Patent Examiner, at (571) 272-1705.

The application is being returned to the examiner for consideration of the preliminary amendment and for taking appropriate action.

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

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Paper No. 05042004

KLARQUIST SPARKMAN, LLP
One World Trade Center
Suite 1600
121 S.W. Salmon Street
Portland OR 97204

MAY 4 2004

In re Application of
Warren M. Farnworth et al.
Application No.: 10/315,511
Filed: December 9, 2002
For: **NANOTUBE SEMICONDUCTOR DEVICES AND METHODS FOR MAKING THE SAME**

WITHDRAWAL FROM ISSUE
37 CFR 1.313

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

The application is being withdrawn from issue because of unpatentability of at least one claim.

The US Patent and Trademark Office records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Fee(s) Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Fee(s) Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Any question regarding this communication should be directed to Wael Fahmy, Supervisory Patent Examiner, at (571) 272-1705.

The application is being returned to the examiner for consideration of the preliminary amendment and for taking appropriate action.

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Freitag, et al.	:	DECISION GRANTING
Application No. 10/315,512	:	PETITION
Filed: December 9, 2002	:	
Attorney Docket No. 98-32DIV1CON1	:	

This is a decision on the petition under 37 CFR 1.10(d), filed November 16, 2004, requesting that the correspondence entitled "Election of Species" submitted in November of 2004 be accorded a filing date of November 1, 2004, rather than the presently accorded filing date of November 2, 2004.

The petition is **GRANTED**.

Applicants request the earlier filing date on the basis that the correspondence entitled "Election of Species" was purportedly deposited in Express Mail service (Express Mail mailing label #EV432652790US) on November 1, 2004, pursuant to the requirements of 37 CFR 1.10. However, the Express Mail mailing label identified in the original application papers indicates a "date-in" of November 2, 2004. Applicants allege that the date of mailing indicated by the Express Mail mailing label is a U.S. Postal Service (USPS) error and the correct date of mailing is November 1, 2004.

In support, the petition is accompanied by a copy of the USPS "Track & Confirm Shipment Details," that indicates the item with Express Mail label #EV432652790US was placed into Express Mail service on November 1, 2004.

In view of the evidence present in the file, it is concluded that the "date-in" indicated on the Express Mail mailing label is incorrect and that the correct date of deposit in Express Mail service for the correspondence entitled "Election of Species" is November 1, 2004.

Accordingly, the correspondence entitled "Election of Species" is entitled to a filing date of November 1, 2004.

The application is being returned to Technolgy Center 1700 for further examination *in due course* and correction fo the filing date for the correspondence entitled "Election of Species" to November 1, 2004.

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

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

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PULMONOX TECHNOLOGIES CORPORATION
10835-120 STREET EDMONTON
ALBERTA CANADA, T5H 3P9

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JUN 01 2010

OFFICE OF PETITIONS

In re Patent No. 6,920,876	:	
Issue Date: July 26, 2005	:	
Application No. 10/315,539	:	ON PETITION
Filed: December 10, 2002	:	
Attorney Docket No. 24647-81801 (0-02-166)	:	

This is a decision on the petition under 37 CFR 1.378(c), filed March 31, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (1) above.

The statement of delay is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);

(2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;

(3) An assignee as provided for under §3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Therefore, as the petition is signed by Doug Hole and he appears to be a representative of an assignee which has not complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unintentional delay. A certificate under 37 CFR 3.73(b) is needed to accept his signature.

Petitioner will not receive future correspondence related to maintenance fees for the patent unless a "Fee Address" Indication Form (see PTO/SB/47) and Request for Customer Number (see PTO/SB/125) are submitted.

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

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

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

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

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

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

Enclosed: PTO/SB/96 Statement Under 37 CFR 3.73(b)

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

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 04/23/2010

Applicant	: Tetsuo Fujii	: DECISION ON REQUEST FOR
Patent Number	: RE41047	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/315,566	: OF WYETH
Filed	: 12/10/2002	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COGNIS CORPORATION
PATENT DEPARTMENT
300 BROOKSIDE AVENUE
AMBLER, PA 19002

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MAR 2 2 2007

OFFICE OF PETITIONS

In re Application of

Mertz, et al. :

Application No. 10/315,574 : DECISION ON PETITION

Filed: December 9, 2002 :

Attorney Docket No. U0063 OS/OAAP

This is a decision on the petition under 37 CFR §1.137(b), November 29, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1400.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed June 27, 2006. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on September 28, 2006.

The issue fee was received on November 29, 2006.

Form PTOL-85B, filed November 29, 2006, is noted and made of record.

The application is being directed to the Office of Patent Publications for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE 2/25/09

Paper No.: —

TO SPE OF : ART UNIT 2416

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/315202 Patent No.: 2486612 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.

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

Comments: _____

WILLIAM TROST
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600
SPE

2416
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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DIW Oct-07

SIDNEY OSTER
LEGEND SPORTS GEAR, INC
3625 DUVAL ROAD #1431
AUSTIN TX 78759

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OCT 30 2007
OFFICE OF PETITIONS

In re Application of Schroder et al. Application No. 10/315611 Filed: 12/10/2002 Attorney Docket No. 13825:11	: : : : : :	DECISION ON PETITION

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

The petition is **DISMISSED**.

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

The above-identified application became abandoned on 10 December, 2004, for failure to timely respond to the non-final Office action mailed on 9 September, 2004, which set a three (3)-month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 20 April, 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).

<u>As to Period (1):</u>

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]. <u>See</u> 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 (almost three (3) years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on 10 December, 2004. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as William N. Hulsey, III, et al. (collectively hereinafter "the attorneys of record"), were counsel of record at the time of abandonment, the attorneys of record should explain why this application became abandoned while it was under their control and what efforts the attorneys of record made to further reply of itself and with whom this matter was discussed outside of the attorneys of record, the inventors, and assignee Legend Sports Gear. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), the attorneys of record, the inventors, assignee Legend Sports Gear, and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then involved in the prosecution of the application, including the attorneys of record, the joint inventors, and assignee Legend Sports Gear, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids,

LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

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

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

record, the joint inventors, and assignee Legend Sports Gear and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

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

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

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

Any renewed petition may be addressed as follows:

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

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

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

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

The revocation and power of attorney filed on 2 October, 2007, with the present petition cannot be accepted because it is filed on behalf of the assignee of record of the entire interest, but

lacks the required statement under 37 CFR 3.73(b). A copy of Form PTO/SB/96 is enclosed for petitioners' reference.

The address in the petition is different than the correspondence address. A copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/96

Cc:

ANTONY P. NG
DILLON & YUDELL, LLP
8911 N. CAPITAL OF TEXAS HIGHWAY, SUITE 2110
AUSTIN TX 78759

PTO/SB/96 (10-07)
Approved for use through 10/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Entitled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____%)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ As required by 37 CFR 3.73(b)(1)(i), 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 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Signature	Date
Printed or Typed Name	Telephone Number
Title	

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 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.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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OFFICE OF PETITIONS

In re Application of	:	
John Barnak et al	:	
Application No. 10/315,646 et al	:	ON PETITION
Filed: December 9, 2002	:	
Attorney Docket No. 42P15041	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed June 15, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 16, 2004.

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

The application file is being referred to the Office of Patent Publication.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : February 3, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Alan George Cole, et al.
Application No. : 10/315,650
Filed : December 10, 2002

The above-identified application has been assigned Patent No. 6,996,404 and an issue date of February 7, 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 February 7, 2006:

> "All reference to Patent No. 6,996,404 to ALAN GEORGE COLE, ET AL. of NEW YORK for DYNAMIC SERVICE BINDING PROVIDING TRANSPARENT SWITCHING OF INFORMATION SERVICES HAVING DEFINED COVERAGE REGIONS appearing in the Official Gazette of February 7, 2006, should be deleted since no patent was granted."

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

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RYAN, MASON & LEWIS, LLP
SUITE 205
1300 POST ROAD
FAIRFIELD, CT 06430

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FEB 0 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Alan George Cole, et al.	:	
Application No. 10/315,650	:	ON PETITION
Filed: December 10, 2002	:	
Attorney Docket No. YOR920020299US1	:	

This is a decision on the petition under 37 CFR 1.313(c)(3), filed January 27, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioners request that the application be withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3).

The above-identified application is expressly abandoned in favor of a continuing application under 37 CFR 1.53(b) filed January 27, 2006.

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

Sherry D. Brinkley

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

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent No. 7,019,033 B2	**Group Art Unit: 1626**
Issue Date: March 28, 2006	
Application Serial No.: 10/315,654	**Examiner: Ebenezer O. Sackey**
Filed: December 10, 2002	
Confirmation No.: 4397	
Inventors: Stephen Barrett, et al.	**Attorney Docket No.: PC17232C**
For: 2-(4-Bromo or 4-Iodo Phenylamino) Benzoic Acid Derivatives	

Attention: Certificate of Correction Branch
Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CERTIFICATE OF CORRECTION OF OFFICE MISTAKE PURSUANT TO 35 U.S.C. § 254 and 37 CFR § 1.322

Sir:

Pursuant to 35 U.S.C. § 254 and 37 CFR § 1.322, Attorney for Applicants respectfully requests issue of certificate of correction to correct a mistake in the claims of U.S. Patent No. 7,019,033 B2 incurred through the fault of the Office.

Column 24
Line (48), please change "benzole" to – **benzoic** –.

Column 24
Line (49), please change "2,4,6-Trifluoro" to – **3,4,5-Trifluoro** –.

Column 24
Line (67), please change "pharmaceutically acceptants that form thereof" to – **pharmaceutically acceptable salt form thereof** –.

Column 26

Lines (12 to 13), please change "atheroactarosis" to -- **atherosclerosis** --.

As evidence that this mistake is clearly disclosed in the records of the Office, Applicants submit a copy of the Amendments and Remarks filed with the United States Patent and Trademark Office on December 1, 2004.

Respectfully submitted,

Date: December 19, 2006

/Galina M. Yakovleva/
Galina M. Yakovleva, Ph.D.
Attorney For Applicants
Registration No. 47,192

Pfizer Inc.
Patent Department
10555 Science Center Drive
San Diego, California 92121
Phone: (858) 622-6095
Fax: (858) 678-8233

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. : 7,019,033 B2

APPLICATION NO.: 10/315,654

ISSUE DATE : March 28, 2006

INVENTOR(S) : Stephen Douglas Barrett; Alexander James Bridges; Donna Reynolds Cody; Annette Marian Doherty; David Thomas Dudley; Alan Robert Saltiel; Mel Conrad Schroeder; Haile Tecle

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

Column 24
Line 48, "benzole" should read -- benzoic --

Column 24
Line 49, "2,4,6-Trifluoro" should read -- 3,4,5-Trifluoro --

Column 24
Line 67, "pharmaceutically acceptants that form thereof" should read --pharmaceutically acceptable salt form thereof --

Column 26
Lines 12 to 13, "atheroactarosis" should read -- atherosclerosis --

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

Galina M. Yakovleva, Ph.D., Corporate Counsel (Registration No. 47,192)
Pfizer Inc.
10555 Science Center Drive, San Diego, CA 92121

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.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,019,033 B2
APPLICATION NO. : 10/315654
DATED : March 28, 2006
INVENTOR(S) : Stephen Douglas Barrett 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 24
Line 48, "benzole" should read -- benzoic --

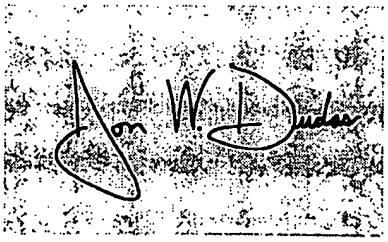
Column 24
Line 49, "2,4,6-Trifluoro" should read -- 3,4,5-Trifluoro --

Column 24
Line 67, "pharmaceutically acceptants that form thereof" should read --pharmaceutically acceptable salt form thereof --

Column 26
Lines 12 to 13, "atheroactarosis" should read -- atherosclerosis --

Signed and Sealed this

Thirteenth Day of February, 2007



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

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MINTZ LEVIN COHN FERRIS
GLOVSKY & POPEO
666 THIRD AVENUE
NEW YORK, NY 10017

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OFFICE OF PETITIONS

In re Application of	:	
Daniel Preston	:	
Application No. 10/315,655	:	DEC ISION ON PETITION
Filed: December 9, 2002	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 24487-019	:	

This is a decision on the petition, filed March 7, 2005, which is being treated as a petition under 37 CFR § 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR § 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR § 1.76(a)(6), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed application.

The instant pending nonprovisional application was filed on December 9, 2002, and was pending at the time of filing of the instant petition. While a reference to the prior-filed application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the oath or declaration filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR § 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(5)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application set forth in the oath or declaration or transmittal letter submitted with the application,

a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(6).[1] In the instant case, the Office noted the claim for priority of the prior-filed application in the declaration filed with the application, as shown by its inclusion on the filing receipt.

In view of the above, the $1370 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

The "Revocation and Appointment of Attorney and Change of Correspondence Address" submitted on October 12, 2004 is not accepted. **In order for an assignee to take action in a case before the Office, compliance with 37 CFR 3.73(b) must be satisfied**. More specifically, 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A blank 37 CFR 3.73(b) accompanies this decision.

Any questions concerning this decision on petition may be directed to Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the Examiner of Technology Center AU 3644 for appropriate action on the amendment filed March 7, 2005.

Frances Hicks
Petitions Examiner
Office of Petitions

Attachment: blank 37 CFR 3.73(b)

---

[1] *Note* MPEP 201.11 (III)(D) , pages 200-59 and 200-60 (Rev. 2. May 2004) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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Paper No. 6

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MAY 27 2003

OFFICE OF PETITIONS

PENNIE & EDMONDS
1667 K. STREET NW
WASHINGTON, DC 20006

ON PETITION

In re application of
Michael T. Nowak et al.
Application No. 10/315,659
Filing Date: December 10, 2002
Attorney Docket No. 618-1037-999

This is a decision on the petition under 37 CFR 1.47(a) filed April 17, 2003.

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

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

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

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.

After the mailing of this decision, the file will be forwarded to the Office of Initial Patent Examination for pre-examination processing.

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

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

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

cc: Pennie & Edmonds
1155 Avenue of the Americas
New York, NY 10036-2711

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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JAN 11 2008

OFFICE OF PETITIONS

In re Application of :
John W. Nasielski :
Application No. 10/315,673 : ON PETITION
Filed: December 9, 2002 :
Attorney Docket No. 020706 :

This is a decision on the petition to withdraw holding of abandonment under 37 CFR 1.181 and the petition under 37 CFR 1.137(b), to revive the above-identified application, both petitions filed concurrently on November 15, 2007.

The petition to withdraw holding of abandonment under 37 CFR 1.181 is **DISMISSED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before October 3, 2007, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed July 3, 2007.
Petitioner asserts that the Notice dated July 3, 2007 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and
3. a copy of the docket record where the nonreceived Notice would have been entered had it been received must be attached to and referenced in the practitioner'statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy all of the above-stated requirements. In this regard, applicant has only provided copies of the relevant pages of the USPTO Outgoing Correspondence Log for his customer number.

Accordingly, absent the required evidence to establish nonreceipt of the Notice of Allowance and Issue Fee(s) due mailed July 3, 2007, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

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

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed July 3, 2007, which set a shortened statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on October 4, 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 the issue fee; (2) the petition fee of $1,540; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

The application file is being referred to the Office of Patent Publication.

David Bucci
Petitions Examiner
Office of Petitions

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PAUL KROON Jr.
BOURQUE & ASSOCIATES, P.A.
835 HANOVER STREET, SUITE 301
MANCHESTER, NH 03104

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SEP 28 2005
OFFICE OF PETITIONS

In re Application of	:	
Daniel Preston	:	
Application No. 10/315,686	:	DECISION ON PETITION
Filed: December 9, 2002	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. ATAIR-002XX	:	

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed April 15, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional application set forth in the amendment filed March 8, 2004.

The petition requests entry of an amendment filed March 8, 2004 to the first sentence of the specification following the title to include a reference to the prior-filed application. While a reference to the prior-filed application was not included in an ADS or in the first sentence of the specification following the title, a reference nevertheless was made in the declaration filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR § 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(5)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78 (a)(6).[1] In the present case, the Office noted the claim for priority of the prior-filed application in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt.

Therefore, the petition is unnecessary and is **DISMISSED AS INVOLVING A MOOT ISSUE**.

---

[1] *Note* MPEP 201.11 (III)(D) , pages 200-59 and 200-60 (Rev. 2. May 2004) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

In view of the above, the $1370 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to Angela Ortiz at (571) 272-6051, or in her absence, the undersigned at (571) 272-3217. 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 the Examiner of Technology Center AU 3644 for appropriate action on the amendment filed July 15, 2005, including consideration by the examiner of the claim under 35 U.S.C. § 119(e) for benefit of the prior-filed provisional application.

Frances Hicks for

Brian Hearn
Petitions Examiner
Office of Petitions

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WYETH
PATENT LAW GROUP
FIVE GIRALDA FARMS
MADISON NJ 07940

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OFFICE OF PETITIONS

In re Application of
Yardley et al.
Application No. 10/315,699
Filed: December 10, 2002
For: ETHERS OF O-DESMETHYL VENLAFAXINE
Attorney Docket No: AM100159D2
Pub. No.: US 2003/0158253 A1
Pub. Date: August 21, 2003

This is in response to the "Request for Amendment of Patent Application Publication," which was received on September 25, 2003.

The request is DISMISSED.

The application was published on August 21, 2003 and a benefit claim to a provisional application was not included on the patent application publication, because it was not provided in compliance with 37 CFR 1.78. A telephone call was made to applicant's representative on November 24 and 25, 2003, but she could not be reached.

It is noted that applicant is attempting to claim the benefit of an earlier filed provisional application. Since the benefit claim was not filed within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application, the benefit of the earlier filed application is considered to have been waived. To make a late benefit claim to the earlier filed application, applicant must submit a petition to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of the earlier filed provisional application. The petition must include 1) the surcharge ($1330) set forth in 37 CFR 1.14(t) and 2) a statement that the entire delay between the date the claim was due under paragraph (a)(5) of this section and the date the claim was filed was unintentional. The petition must also include a proper reference (amendment) to the prior applications in order for the petition to be granted.[1]

Since the issue fee has already been paid, it is too late to submit an amendment after the Notice of Allowance under 37 CFR 1.312 and it is recommended that applicant file a Request for Continued Examination (RCE) under 37 CFR 1.114 to have the amendment entered. Applicant is also reminded that a benefit claim to a provisional application must be made during the pendency of the application under the American Inventors' Protection Act (AIPA).

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

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

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[1]See Claiming the Benefit of a Prior-Filed Application under 35 U.S.C. §§ 119(e), 120, 121, and 365(c), 1268 Off. Gaz. Pat. Office Notices 89 (March 18, 2003).

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Paper No. 11

MICHAEL A. PATANE, ESQ.
COZEN O' CONNOR, P. C.
1900 MARKET STREET
PHILADELPHIA PA 19103-3508

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DEC 23 2003

OFFICE OF PETITIONS

In re Application of
John P. Yardley, et al.
Application No. 10/315,699
Filed: December 10, 2002
Attorney Docket No. AM100159D2

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 11, 2003, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 30, 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.

After the application is received in the Office of Petitions, the file will be forwarded to Technology Center AU 1625 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

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

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Paper No.7

F. TYLER MORRISON
PRATT & WHITNEY
PATENT DEPARTMENT - MS 132-13
400 MAIN STREET
EAST HARTFORD, CT 06108

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OFFICE OF PETITIONS

In re Application of :
Alan D. Cetel, et al.. :
Application No. 10/315,704 :
Filed: December 10, 2002 :
Attorney Docket No. EH-10844 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 14, 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. 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). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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

The application file is being returned to Initial Patent Examination Division for further processing using the declaration filed May 14, 2004.

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

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA PA 19103

In re application of:
Cope, et al.
Application No. 10/315,725
Filed: December 10, 2002
For: **POWER LINE COMMUNICATION APPARATUS AND METHOD OF USING THE SAME**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record and change of address filed on April 8, 2005.

A grantable request to withdraw, as attorney/agent of record must:
(1) Indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) Be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) Be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) Indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All of the attorneys/agents with Customer Number (23377) in the request are withdrawn.

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc:

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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SHERRILL LAW OFFICES
4756 BANNING AVENUE, SUITE 212
WHITE BEAR LAKE, MN 55110-3205

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NOV 05 2004

OFFICE OF PETITIONS

In re Application of
Gregory S. Patterson
Application No. 10/315,751
Filed: December 10, 2002
Attorney Docket No. BSC011USPT02

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed July 16, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on December 10, 2002, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/339,570, which was filed on December 10, 2001, for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii).

Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/339,570 is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that 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 provisional application, accompanies this decision on petition.

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

This matter is being referred forwarded to Technology Center AU 1744.

Frances Hicks

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

Attachment: Corrected Filing Receipt

Pet. Decn

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PTO/SB/83 (09-04)
Approved for use through 11/30/2005. OMB 0651-0036
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	10/316,751
Filing Date	12/10/2002
First Named Inventor	Patterson
Art Unit	1744
Examiner Name	
Attorney Docket Number	BSC011USPT02

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

Approved
Jacqueline M. Stone, Director
Technology Center 1700
5/26/05

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 23403

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: The client has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time. Numerous attempts have been made to collect the amounts due and owing, with no result.

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	Greg Patterson				
Address	Biosun Systems Corporation P.O. Box 1925				
City	Maple Grove	State	MN	Zip	55311-9998
Country	USA				
Telephone	952-939-6052	Fax			
Signature	M Sherrill				
Name	Michael S. Sherrill	Registration No.	32,302		
Date	18 Mar 05	Telephone No.	651-428-2400		

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 filing 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.

PTO/SB/97 (08-03)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

BSC011USPT02

Certificate of Transmission under 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office.

On: March 18, 2005
Date

Sharon E Bloomquist
Signature

Sharon E. Bloomquist
Typed or printed name of person signing Certificate

Note: Each paper must have its own certificate of transmission, or this certificate must identify each submitted paper.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS (1 page)

This collection of information is required by 37 CFR 1.8. 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 1.8 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.

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AUG 25 2008

LAW OFFICE OF ANDREI D. POPOVICI, P.C.
4020 MOORPARK AVENUE, SUITE 101
SAN JOSE, CA 95117

In re Application of	:	
DIMITRI, et al.	:	
Application No. 10/315,752	:	DECISION ON PETITION
Filed: December 9, 2002	:	TO WITHDRAW
Attorney Docket No. 3DG-104.1	:	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 2, 2008.

The request is DISMISSED as moot.

A review of the file record indicates that the power of attorney to LAW OFFICE OF ANDREI D. POPOVICI, P.C. has been revoked by the assignee of the patent application on July 31, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: DORSEY & WHITNEY, LLP
1420 FIFTH AVENUE, SUITE 3400
SEATTLE, WA 98101-4010

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/315,764	12/10/2002	Dennis B. Hovatter	A01295	2873

21898 7590 06/20/2006

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

EXAMINER
FEELY, MICHAEL J

ART UNIT	PAPER NUMBER
1712	

DATE MAILED: 06/20/2006

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

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Mailed:

RPG
Paper No. 6/14/06

In re Application of Hovatter et al.
Serial No.: 10/315,764
Filed: December 10, 2002

DECISION ON PETITION UNDER *37 CFR 1.48(a)*

For: COATED SHEET-MOLDED ARTICLES, AND METHODS OF MANUFACTURE THEREOF

This is a decision on the PETITION TO CORRECT INVENTORSHIP, filed April 23, 2004 to correct inventorship under 37 CFR 1.48(a) by adding the names of Lloyd R. Hilligoss and Edward S. Sakowicz to the list of inventors of the instant application.

It is noted that the applicant has met the requirements of 37 C.F.R. § 1.48(a) by (1) submitting a request to correct the inventorship that sets forth the desired inventorship change; (2) providing a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) providing a declaration of the actual inventors as required by 37 C.F.R. § 1.63; (4) providing the processing fee set forth in 1.17(i); and, (5) providing the written consent of the assignee.

The request 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

ROHM AND HAAS COMPANY
Patent Department
100 Independence Mall West
Philadelphia, Pa. 19106-2399

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GENERAL MOTORS CORPORATION
LEGAL STAFF
MAIL CODE 482 - C23 - B21
P.O. BOX 300
DETROIT, MI 48265-3000

Mail Date: 06/02/2010

Applicant	: Steven D. Burch	: DECISION ON REQUEST FOR
Patent Number	: 7625647	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/315,772	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/09/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **823** 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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OFFICE OF PETITIONS

In re Application of

Wilhelmus Jacobus Van Gestel

Application No. 10/315,814

Filed: December 10, 2002

Attorney Docket No. PHN 17,553A

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), January 3, 2007, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1,400.00 and the publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed July 28, 2006. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on October 29, 2006. A Notice of Abandonment was mailed on November 29, 2006.

The issue fee and publication fee were received on January 3, 2007.

The application is being forwarded to the Office of Patent Publications for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DAVID AKER
23 SOUTHERN ROAD
HARTSDALE NY 10530

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JUN 21 2006

OFFICE OF PETITIONS

In re Application of :
Murthy V. Devarakonda et al. :
Application No. 10/315,820 :
Filed: December 10, 2002 :
Attorney Docket No.: **YOR920020288US1** :

ON PETITION

This is a decision on the petition filed April 28, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed June 16, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned September 19, 2005. Accordingly, a Notice of Abandonment was mailed January 24, 2006.

This matter is being referred to Technology Center 2163 for appropriate action on the amendment filed April 28, 2006.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS MN 55403-2420

JUN 04 2007

In re Application of:
LIN, HORNG-BAN
Serial No. 10/315,830
Filed: Dec. 10, 2002
Docket: 1001.1630101
Title:
INTRAVASCULAR FILTER MEMBRANE WITH SHAPE MEMORY

DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the petition filed Feb. 16, 2007 under 37 CFR 1.181 requesting supervisory review of the final office action mailed Oct. 19, 2006.

The petition is **Dismissed as moot**.

The examiner was instructed to construe the petition as a request for reconsideration. In finding petitioner's points of argument persuasive, the requested relief is granted. In view of the examiner's action, decision on the petition is moot and is dismissed.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED AS MOOT.

Karen M. Young
for Frederick R. Schmidt, Director
Technology Center 3700

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P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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DEC 2 0 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Hess et al.	:	
Application No. 10/315,832	:	
Filed: December 10, 2002	:	
Attorney Docket No. 12225-002002	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 10, 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.

This matter is being referred to Technology Center 1600 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

CC: MELISSA HUNTER-ENSOR, PH.D.
EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

Steven L. Oberholtzer
BRINKS HOFER GILSON & LIONE
P.O. Box 10395
Chicago, IL 60610

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APR 0 8 2003

OFFICE OF PETITIONS

In re Application of
Tabatowski et al.
Application No. 10/315,846
Filed: December 10, 2002
Attorney Docket No.:10541-1581

ON PETITION

This is a decision on the petition filed February 10, 2003, requesting that the above-identified application be accorded a filing date of December 10, 2002 with figures 7(b) and 7(c) as part of the original application disclosure.

The application was filed on December 10, 2002. However, on January 14, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Omitted Items in a Nonprovisional Application" stating that the application had been accorded a filing date of December 10, 2002 and advising applicant that figures 7(b) and 7(c) described in the specification appeared to have been omitted.

In response, the present petition was filed on February 10, 2003 wherein petitioner contends figures 7(b) and 7(c) were filed December 10, 2002. In support, the petition is accompanied by a copy of applicants' return postcard which lists " Eight (8)Sheets of Drawings". The petition is further accompanied by drawings of figures 7(b) and 7(c).

Applicant's postcard receipt is prima facie evidence that 8 sheets of drawings including 1 sheet containing figures 7(b) and 7(c) were received on December 10, 2002, but figures 7(b) and 7(c) were not present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that one sheet of drawings containing figures 7(b) and 7(c) were received on December 10, 2002, as shown in counsel's file, and later misplaced in the office.

The petition is Granted.

Since original figures 7(b) and 7(c) cannot be located in the Office, figures 7(b) and 7(c) supplied on February 10, 2003, will be used for processing and examination purposes.

Deposit account no. 06-1500 will be credited with the $130.00 petition fee.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of **December 10, 2002**, using application papers filed on February 10, 2002 and the 1 sheet of drawings including figures 7(b) and 7(c) supplied on February 10, 2002.

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Thomas H. Close
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

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JUN 2 7 2003

OFFICE OF PETITIONS

In re Application of Luo et al. Application No. 10/315,884 Filed: December 10, 2002 Attorney Docket No.85325WFN	: : : : :	ON PETITION
In re Application of Luo et al. Application No. 10/315,855 Filed: December 10, 2002 Attorney Docket No. 84986WFN	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.182 filed April 28, 2003, for application no. 10/315,884. This is also a decision on the petition under 37 CFR 1.182 filed March 25, 2003, for application no. 10/315,855. The petitions request correction of the files of the above-identified applications.

The petition under 37 CFR 1.182 for application no. 10/315,884 is **granted**.

The petition under 37 CFR 1.182 for application no. 10/315,855 is **granted**.

Petitioner requests that the drawings filed in application no. 10/315,884 on December 10, 2002, be transferred to the file of application no. 10/315,855 and that the drawings filed in application no. 10/315,855 on December 10, 2002, be transferred to application no. 10/315,884.

Petitioner has established that each set of drawings was unintentionally filed with the wrong application and that transfer of the drawings is warranted.

The drawings filed December 10, 2002, in application no. 10/315,884 will remain in the file, but will not be entered. Instead, the application will be reprocessed using the drawings filed on April 28, 2003, which are a copy[1] of the drawings filed on December 10, 2002, in application no. 10/315,855.

Likewise, the drawings filed December 10, 2002, in application no. 10/315,855 will remain in the file, but will not be entered. Instead, the application will be reprocessed using the drawings

[1] The "copy" is not an exact copy. Instead, "formal" drawings have been filed which correspond with the "informal" drawings originally filed on December 10, 2002.

filed on March 25, 2003, which are a copy[2] of the drawings filed on December 10, 2002, in application no. 10/315,884.

Application no. 10/315,844 is being returned to the Office of Initial Patent Examination for reprocessing with a filing date of December 10, 2002, using the 15 sheets of drawings containing Figures 1-17 filed on April 28, 2003.

Application no. 10/315,855 is being returned to the Office of Initial Patent Examination for reprocessing with a filing date of December 10, 2002, using the 9 sheets of drawings containing Figures 1-12 filed on March 25, 2003.

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

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

[2] The "copy" is not an exact copy. Instead, "formal" drawings have been filed which correspond with the "informal" drawings originally filed on December 10, 2002.

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SAN DIEGO, CA 92121

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AUG 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Richard D. Connell et al	:	
Application No. 10/315,863	:	DECISION ON PETITION
Filed: December 10, 2002	:	
Attorney Docket No. PC23116A	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 14, 2006, to revive the above-identified application.

The petition is **GRANTED**.

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

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed January 12, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on April 13, 2006. A Notice of Abandonment was mailed on October 20, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal, (2) the petition fee of 1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of January 12, 2006 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 1624 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Frances Hicks
Petitions Examiner
Office of Petitions

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CHARLES G. CALL
68 HORSE POND ROAD
WEST YARMOUTH, MA 02673-2516

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MAR 2 8 2007

OFFICE OF PETITIONS

In re Application of

Sunil Kunisetty :

Application No. 10/315,869

: DECISION ON PETITION

Filed: December 10, 2002

:

Attorney Docket No. C-34

This is a decision on the petition under 37 CFR 1.137(b), filed, January 22, 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 non-final Office action mailed March 23, 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 24, 2006.

The amendment filed January 22, 2007, is noted.

The application is being forwarded to Technology Center 2100, GAU 2151 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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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CHARLES G. CALL
20 EAST GOETHE STREET
CH1
CHICAGO IL 60610-2368

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OFFICE OF PETITIONS

In re Application of	:	
Sunil KUNISETTY	:	
Application No. 10/315,869	:	DECISION ON PETITION
Filed: December 10, 2002	:	
Attorney Docket No. C-34	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 17, 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.

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the Notice of Panel Decision with 37 CFR 41.37(c)(1), mailed November 28, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on December 29, 2007. See MPEP 1215.04.

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) in that the Appeal Brief filed March 17, 2008, is not accompanied by the required $510 fee.

The submission filed March 17, 2008 along with the fee of $1540 could have been considered as a request for a three month extension of time for filing the Appeal Brief in response to the Notice of Panel decision mailed November 28, 2007. However, the balance of $490 is insufficient to cover the fee required for filing the Appeal Brief.

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

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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional) C-34

First named inventor: Sunil Kunisetty

Application No.: 10/315,869 Art Unit: 2151

Filed: December 10, 2002 Examiner: Glenford J. Madamba

Title: Methods and apparatus for invoking a document style server operation using an operation name in a SOAPAction header

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

03/17/2008 PCHOMP 00000018 10315869
01 FC:1453 1540.00 OP

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee
☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.
☑ Other than small entity – fee $ 1,540 (37 CFR 1.17(m))

2. Reply and/or fee
A. The reply and/or fee to the above-noted Office action in the form of Amendment (identify type of reply):
☐ has been filed previously on _____.
☑ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.
☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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

3. Terminal disclaimer with disclaimer fee

☑ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	March 15, 2008 Date
Charles G. Call Typed or printed name	20,406 Registration Number, if applicable
218 Seminole Court Address	(312) 265-0900 Telephone Number
Marco Island, FL 34245 Address	

Enclosures: ☑ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☑ Other: Appellant's Brief

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☑ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

March 15, 2008 Date	Signature
	Charles G. Call Typed or printed name of person signing certificate

PAGE 15/16 * RCVD AT 3/15/2008 6:26:44 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-4/17 * DNIS:2738300 * CSID:3122844590 * DURATION (mm-ss):06-44

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Thomas H. Close
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

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JUN 2 7 2003

OFFICE OF PETITIONS

In re Application of	:	
Luo et al.	:	
Application No. 10/315,884	:	ON PETITION
Filed: December 10, 2002	:	
Attorney Docket No.85325WFN	:	

In re Application of	:	
Luo et al.	:	
Application No. 10/315,855	:	ON PETITION
Filed: December 10, 2002	:	
Attorney Docket No. 84986WFN	:	

This is a decision on the petition under 37 CFR 1.182 filed April 28, 2003, for application no. 10/315,884. This is also a decision on the petition under 37 CFR 1.182 filed March 25, 2003, for application no. 10/315,855. The petitions request correction of the files of the above-identified applications.

The petition under 37 CFR 1.182 for application no. 10/315,884 is **granted**.

The petition under 37 CFR 1.182 for application no. 10/315,855 is **granted**.

Petitioner requests that the drawings filed in application no. 10/315,884 on December 10, 2002, be transferred to the file of application no. 10/315,855 and that the drawings filed in application no. 10/315,855 on December 10, 2002, be transferred to application no. 10/315,884.

Petitioner has established that each set of drawings was unintentionally filed with the wrong application and that transfer of the drawings is warranted.

The drawings filed December 10, 2002, in application no. 10/315,884 will remain in the file, but will not be entered. Instead, the application will be reprocessed using the drawings filed on April 28, 2003, which are a copy[1] of the drawings filed on December 10, 2002, in application no. 10/315,855.

Likewise, the drawings filed December 10, 2002, in application no. 10/315,855 will remain in the file, but will not be entered. Instead, the application will be reprocessed using the drawings

[1] The "copy" is not an exact copy. Instead, "formal" drawings have been filed which correspond with the "informal" drawings originally filed on December 10, 2002.

filed on March 25, 2003, which are a copy[2] of the drawings filed on December 10, 2002, in application no. 10/315,884.

Application no. 10/315,844 is being returned to the Office of Initial Patent Examination for reprocessing with a filing date of December 10, 2002, using the 15 sheets of drawings containing Figures 1-17 filed on April 28, 2003.

Application no. 10/315,855 is being returned to the Office of Initial Patent Examination for reprocessing with a filing date of December 10, 2002, using the 9 sheets of drawings containing Figures 1-12 filed on March 25, 2003.

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

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

[2] The "copy" is not an exact copy. Instead, "formal" drawings have been filed which correspond with the "informal" drawings originally filed on December 10, 2002.

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of:
Yulun Wang, et al.
Application No. 10/315,893
Filed: December 9, 2002
For: GENERAL PURPOSE DISTRIBUTION OPERATING ROOM CONTROL SYSTEM

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent and change of address filed on January 3, 2005.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All of the attorneys/agents associated with Customer Number 20350 are withdrawn.

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-1986

cc: Frank Nguyen
Intuitive Surgical, Inc.
950 Kifer Road
Sunnyvale, CA 94086

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of		
Gerald, et al.	:	DECISION ON PETITION
Application No. 10/315,904	:	
Filed: December 10, 2002	:	
Attorney Docket No. ANL 229	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed March 14, 2007.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed December 8, 2006. This Notice set a statutory period for reply of three (3) months for issue fee transmittal. No issue fee having been received, the application became abandoned on March 9, 2007.

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 the issue and publication fees.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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PATENT LAW & VENTURE GROUP
2424 S.E. BRISTOL, SUITE 300
NEWPORT BEACH CA 92660

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OFFICE OF PETITIONS

In re Application of :
Bruce F. Balent :
Application No. 10/315,905 :
Filed: December 9, 2002 :
Attorney Docket No. BalentB-00US :

ON PETITION

This is a decision on the petition filed May 27, 2008, to revive the above identified application under 37 CFR 1.137(a)[1] .

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

A Final Office Action was mailed October 17, 2007 and set a three (3) month shortened statutory period for reply. On February 19, 2008 (February 18, 2008 certificate of mail date), with a one month extension of time, applicant replied with an amendment. On May 16, 2008, however, an Advisory Action was mailed advising that the amendment did not place the application in condition for allowance. Since the maximum period of time obtainable for an extension of time had elapsed and since no proper reply had been received, the application became abandoned April 18, 2008. The instant petition and this decision precede the mailing of the Notice of Abandonment.

PETITION UNDER 37 CFR 1.137(a)

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 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)).

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 asserts that the delay in filing a proper response to the Office Action was due to the Examiner not acting on the amendment after the filing of the response and thus not sending the Advisory Action until after the application became abandoned.

Pursuant to both 37 CFR 1.116 and 37 CFR 1.135(b): (A) the admission of, or refusal to admit, any amendment after final rejection, or any related proceedings, will not

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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).

operate to save the application from abandonment; and (B) the admission of, or refusal to admit, any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment. Accordingly, the filing of an amendment that does not place an application in condition for allowance will not extend the statutory period for reply, regardless of when the amendment is considered by the examiner, and will not prevent abandonment of the application. It is the applicant's responsibility to take the necessary action in an application under a final Office action to provide a complete and proper reply. The fact that the examiner may not have an opportunity to review any amendment prior to the end of the period for reply does not relieve applicant of the responsibility to submit a complete and proper reply prior to the end of the statutory period for reply in order to avoid abandonment. In fact, the possibility of abandonment for failure to do so is precisely the possibility that applicants are cautioned of in §§ 1.116 and 1.135(b). Petitioner was not entitled to an advisory action prior to the end of the statutory period, nor should petitioner have relied on receiving one before taking action to save the application from abandonment.

Petitioner's contention that since Examiner did not notify the applicant in a timely manner allowing the applicant to respond with a timely RCE, applicant was placed in a position that was impossible to avoid abandonment of the application. The argument that the Examiner caused or contributed to unavoidable delay is not well taken. The showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). As petitioner has not provided a showing of evidence to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), the petition will be dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b)[6], which now provides that where the delay in reply was unintentional, a petition may be

---

[6]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)).

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). At this writing, a petition under 37 CFR 1.137 (b) also carries with it a petition fee of $770.00 for a small entity and $1540.00 for a large entity and the $255.00 petition fee paid with the instant petition cannot be credited towards the fee for the petition under 37 CFR 1.137(b), if petitioner chooses to file such.

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Bruce F. Balent
Application No. 10/315,905
Filed: December 9, 2002
Attorney Docket No. BalentB-00US

ON PETITION

This is a decision on the petition filed January 29, 2009, to revive the above identified application under 37 CFR 1.137(b).[1]

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

A Final Office Action was mailed October 17, 2007 and set a three (3) month shortened statutory period for reply. On February 19, 2008 (February 18, 2008 certificate of mail date), with a one month extension of time, applicant replied with an amendment. On May 16, 2008, however, an Advisory Action was mailed advising that the amendment did not place the application in condition for allowance. Since the maximum period of time obtainable for an extension of time had elapsed and since no proper reply had been received, the application became abandoned April 18, 2008. A petition filed May 27, 2008 under 37 CFR 1.137(a), prior to the mailing of the Notice of Abandonment, was dismissed in a decision mailed June 20, 2008 because petitioner a showing of evidence to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), was not provided.

---

[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)).

Comes now petitioner with the instant petition to revive.

In response to the Final Office Action mailed October 17, 2007, the May 27, 2008 Request for Continued Examination (RCE) and an amendment filed with the instant petition, as the submission required under 37 CFR 1.114. have been provided as the required reply.

This matter is being referred to Technology Center 3687 for processing of the RCE.

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

Patricia Faison-Ball

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

HANSRA PATENT SERVICES
4525 GLEN MEADOWS PLACE
BELLINGHAM,WA 98226

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MAY 18 2006

OFFICE OF PETITIONS

In re Application of

McEwen, et al.

Application No. 10/315,909

Filed: December 10, 2002

Attorney Docket No. 3121-446

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 3, 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 June 1, 2005, which set a shortened statutory period for reply of three (3) months. Extension of time within the fourth month was obtained, but no response to the non-final Office action was received within the allowable period. Accordingly, the application became abandoned on September 2, 2005. A Notice of Abandonment was mailed on January 9, 2006.

The amendment filed May 3, 2006, is noted.

The application is being forwarded to Technology Center 2100, GAU 2138 for further processing.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

TOPE-MCKAY & ASSOCIATES
23852 PACIFIC COAST HIGHWAY #311
MALIBU CA 90265

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SEP 1 1 2003

OFFICE OF PETITIONS

In re Application of
CHUANG et al.
Application No. 10/315,912
Filed: December 9, 2002
Attorney Docket No. HRL019
For: METHOD AND APPARATUS FOR SCANNING, PERSONALIZING, AND CASTING MULTIMEDIA DATA STREAMS VIA A COMMUNICATION NETWORK AND TELEVISION

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed August 26, 2003 (certificate of mailing August 21, 2003). Petitioner obtained a three-month extension of time to reply. Thus, the petition is considered as timely filed.

The petition is granted.

Petitioner has shown that the non-signing inventors cannot be located to sign the declaration. Specifically, the statement of facts of Cary Tope-McKay, establishes that petitioner made a diligent effort to locate the non-signing inventors but to no avail.

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

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Mr. Greg Kaestle
21500 Burbank Blvd., Apt. 234
Woodland Hills, CA 91367-7050

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SEP 1 1 2003

OFFICE OF PETITIONS

In re Application of :
Chuang et al. :
Application No. 10/315,912 : LETTER
Filed: December 9, 2002 :
For: METHOD AND APPARATUS FOR :
SCANNING, PERSONALIZING, AND :
CASTING MULTIMEDIA DATA STREAMS :
VIA A COMMUNICATION NETWORK AND :
TELEVISION :

Dear Mr. Kaestle:

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

TOPE-MCKAY & ASSOCIATES
23852 PACIFIC COAST HIGHWAY #311
MALIBU CA 90265

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,771,109 :
Issue Date: August 3, 2004 :
Application No. 10/315,940 :
Filed: December 11, 2002 :
Attorney Docket No. 57454-847 :

This is a decision on the petition filed September 3, 2004, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is granted.

Telephone 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
Office of the Deputy Commissioner
for Patent Examination Policy

[1]See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Patent Law & Venture Group
2424 S.E. Bristol, Suite 300
Newport Beach, CA 92660

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OFFICE OF PETITIONS

In re Application of	:	
Kenneth Ray Strech	:	
Application No. 10/315,959	:	DECISION ON PETITION
Filed: December 9, 2002	:	TO WITHDRAW
Attorney Docket No. Strech.R-02	:	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 12, 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.

A courtesy copy will be mailed to the applicant.

If the company/firm noted on the request to withdraw desire to receive future correspondence regarding this application, the proper power of attorney documents must be submitted, along with a proper statement under 37 CFR 3.73(b).

Applicant is advised that a non-final rejection was mailed on February 27, 2007. Failure to timely reply will result in the abandonment of this application.

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 Kimberly Inabinet at 571-272- 4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Kenneth Ray Strech
30254 Gulfstream
Canyon Lake, CA 92587

cc: Ultimate Enterprises
31566 Railroad Canyon Road,
Suite 305
Canyon Lake, CA 92587

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OFFICE OF PETITIONS

In re Application of
Kenneth Ray Strech
Application No. 10/315,959
Filed: December 9, 2002
Attorney Docket No. Strech.R-02

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 12, 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.

A courtesy copy will be mailed to the applicant.

If the company/firm noted on the request to withdraw desire to receive future correspondence regarding this application, the proper power of attorney documents must be submitted, along with a proper statement under 37 CFR 3.73(b).

Applicant is advised that a non-final rejection was mailed on February 27, 2007. Failure to timely reply will result in the abandonment of this application.

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

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PTO/SB/83 (01-06)
Approved for use through 12/31/2006. 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	10/315,959
Filing Date	12/9/02
First Named Inventor	Kenneth Ray Strech
Art Unit	3626
Examiner Name	Nguyen, Tran N.
Attorney Docket Number	Strech.R-02

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

Please withdraw me as attorney or agent for the above identified patent application, and

- [ ] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [X] the attorneys/agents associated with Customer Number 22197

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: Client is not in contact with our office. Client, Mr. Strech has established an estranged relationship with our office and has failed to support case financially.

CORRESPONDENCE ADDRESS

1. [ ] The correspondence address is NOT affected by this withdrawal.
2. [X] Change the correspondence address and direct all future correspondence to:

[ ] The address associated with Customer Number:

OR

[ ] Firm or Individual Name	Ultimate Enterprises		
Address	31566 Railroad Canyon Road, Suite 305		
City	Canyon Lake	State California	Zip 92587
Country	United States		
Telephone	800-752-6799	Email	
Signature			
Name	Gene Scott	Registration No. 37,930	
Date	5/24/2007	Telephone No. 949-251-9999	

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.

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Appl. No. 10315959
Amdt. Date: May 24, 2007
Reply to Office action of: 5/17/07

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	:	10315959
Applicant	:	K. Strech
Filed	:	12/09/2002
TC/A.U.	:	3626
Examiner	:	T. Nguyen
Docket No.	:	Strech.R-02
Customer No.	:	22197

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

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that the following papers are being facsimile transmitted to the Patent and Trademark Office at (571) 273-8300 on the date shown below:

Revised PTO/SB/83; copy of PTO action letter (3 Pages)

Gene Scott_____Date: May 24, 2007
Signature

PAGE 1/4 * RCVD AT 5/24/2007 4:50:26 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/6 * DNIS:2738300 * CSID: * DURATION (mm-ss):01-38

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Kenneth Ray Strech
30254 Gulfstream
Canyon Lake, CA 92587

cc: Ultimate Enterprises
31566 Railroad Canyon Road,
Suite 305
Canyon Lake, CA 92587

UNITED STATES PATENT AND TRADEMARK OFFICE

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Newport Beach, CA 92660

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OFFICE OF PETITIONS

In re Application of
Kenneth Ray Strech
Application No. 10/315,959
Filed: December 9, 2002
Attorney Docket No. Strech.R-02

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 12, 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.

A courtesy copy will be mailed to the applicant.

If the company/firm noted on the request to withdraw desire to receive future correspondence regarding this application, the proper power of attorney documents must be submitted, along with a proper statement under 37 CFR 3.73(b).

Applicant is advised that a non-final rejection was mailed on February 27, 2007. Failure to timely reply will result in the abandonment of this application.

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 Kimberly Inabinet at 571-272- 4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Kenneth Ray Strech
30254 Gulfstream
Canyon Lake, CA 92587

cc: Ultimate Enterprises
31566 Railroad Canyon Road,
Suite 305
Canyon Lake, CA 92587

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/15/08

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/315964** Patent No.: **7192923**

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** 1654

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

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OFFICE OF PETITIONS

In re Application of	:	
Yoo et al.	:	
Application No. 10/315999	:	ON PETITION
Filing or 371(c) Date: 12/11/2002	:	
Attorney Docket Number: P68500US0	:	

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 August 10, 2006.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely reply to the non-final office action, mailed November 3, 2005. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on February 4, 2006. A Notice of Abandonment was mailed June 6, 2006.

Applicant files the instant petition and Amendment in response to the Office action. Accordingly, the petition is granted.

This application is being referred to Technology Center Art Unit 2622 for processing of the Amendment filed with the petition 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

10/316023

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 5/26/05

DATE : 5-6-05

TO SPE OF : ART UNIT 2835

SUBJECT : Request for Certificate of Correction on Patent No.: 6867968

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

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

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

Please check claims Yes

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:

Yes

LYNN FEILD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

2835
Art Unit

Staple Here Only!

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,867,968 B2
DATED : March 15, 2005
INVENTOR(S) : KATSURO et al.

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

Please add the following claims 24-27 at column 10, after line 27:

24. An electronic control unit for controlling an engine, the electronic control unit comprising:

a circuit board on which is mounted at least one electronic component including a heat generating element;

a cover made of a metallic material that supports the circuit board; and

a metallic case that contains the circuit board together with the cover,

the case having an outer surface and an inner surface incorporating a high infrared absorption coefficient treatment,

a heat conductive material disposed to transfer heat from the electronic component mounted on the circuit board to the cover,

a contacting point between the heat conductive material and the cover being processed to have a relatively higher heat conductivity than the case, and

a fixing portion formed in the cover to fix the cover to a vehicular body.

25. An electronic control unit as in claim 24 wherein the electronic control unit is installed in an engine compartment of a vehicular body.

26. An electronic control unit as in claim 24 wherein the inner surface of the cover incorporates a high infrared absorption coefficient treatment.

27. An electronic control unit as in claim 25 wherein the inner surface of the cover incorporates a high infrared absorption coefficient treatment.

MAILING ADDRESS OF SENDER:

Larry S. Nixon
NIXON & VANDERHYE P.C.
1100 North Glebe Road, 8th Floor
Arlington, Virginia 22201

PATENT NO. 6,867,968 B2

No. of addl'
@ 50¢ per page

Form PTO 1050 (Rev. 2-93)

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CHRISTOS TSIRONIS
FOCUS MICROWAVES
1603 REGIS ST.
D.D.O. QC H98-3H7
CANADA

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JUL 13 2005

OFFICE OF PETITIONS

In re Application of	:	
Christos Tsironis	:	
Application No. 10/316,065	:	ON PETITION
Filed: December 11, 2002	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 11, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed May 24, 2004. Accordingly, this application became abandoned on August 25, 2004. A Notice of Abandonment was mailed on April 5, 2005.

The file is being forwarded to Technology Center 2800 for review of the RCE and amendment, filed April 13, 2005, *in due course*.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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MAR 2 5 2005

OFFICE OF PETITIONS

In re Application of :
Kosuke Komaki, et al. :
Application No. 10/316,080 :
Filed: December 11, 2002 :
Attorney Docket No. 837.1996 :

ON PETITION

This is a decision on the petition, filed March 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 March 11, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 3663 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 30, 2005

TO SPE OF : ART UNIT 3644

SUBJECT : Request for Certificate of Correction on Patent No.: 6,923,122

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:

Application was scanned w/examiner's pencil notations on drawings. Request for reprint of drawings w/out pencil markings OK.

Susan C. Alati 10/3/05

[signature] 3644

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

HELEN C. LOCKHART, PH.D.
WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210

In re Application of	:
Bassett et al.	: DECISION GRANTING
Application No. 10/316,128	: PETITION
Filed: 10 December, 2002	:
Attorney Docket No. S01393.70009.US	:

This is a decision on the paper styled "Petition for Correction of Filing Date" filed on 3 February, 2003, which is treated as a petition under 37 CFR 1.10(c) to accord the above-identified application a filing date of 10 December, 2002, rather than the currently-accorded filing date of 9 December, 2002.

The petition is **GRANTED**.

Petitioners assert that the application was deposited on 10 December, 2002, by USPS Express Mail Post Office to Addressee mail. In support, on 3 February, 2003, petitioners supplied a copy of Express Mail Label No. EL711221191US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file). The "date-in" on the Express Mail Label, however, appears as "12/9/02". The Express Mail label also contains an official USPS postmark, however, dated 10 December, 2002.

In view of the above, it is concluded that correct date of deposit in Express Mail was 10 December, 2002.

The petition is granted. No petition fee is due.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to **10 December, 2002.**

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

DATE 10-3-07 APPLICATION NUMBER 10/316157

DOC CODE Ref Doc. to DOC DATE 10/4/07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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United States Patent and Trademark Office
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PATENT MANAGEMENT GROUP
1515 N. COURTHOUSE ROAD, SUITE 500
ARLINGTON VA 22201-2909

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OCT 04 2007

OFFICE OF PETITIONS

In re Application of	:	
James Howard Drew et al	:	
Application No. 10/316,157	:	DECISION ON PETITION
Filed: December 9, 2002	:	
Attorney Docket No. 02-8009	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 15, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed February 22, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on May 23, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a Notice of Appeal and fee of $500, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of February 22, 2006 is accepted as being unintentionally delayed.

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

inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

An Appeal Brief and fee of $500 was received on May 14, 2007, along with a $120 extension of time fee. However, as this case was abandoned at the time of submission of the Appeal Brief, no extension of time fees were due. Accordingly, the $120 extension of time fee will be refunded to petitioner's deposit account in due course.

This application is being referred to Technology Center AU 2614 for appropriate action in the normal course of business on the Appeal Brief received May 14, 2007.

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

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Daniel J. Henry
Rader, Fishman & Grauer, PLLC
39533 Woodward Avenue, Suite 140
Bloomfield Hills, MI 48304

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1515 N. COURTHOUSE ROAD, SUITE 500
ARLINGTON, VA 22201-2909

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AUG 1 9 2008

OFFICE OF PETITIONS

In re Application of	:	
James Howard **DREW,** et al	:	
Application No. 10/316,157	:	DECISION ON PETITION
Filed: December 9, 2002	:	
Attorney Docket No. 02.8009	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 30, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before June 25, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed March 25, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 25, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the Issue Fee of $1440 ; (2) the petition fee of $1540; and (3) the required statement of unintentional delay.

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

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

Thurman K. Page

Thurman Page
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

STERNE KESSLER GOLDSTEIN & FOX PLLC
1100 NEW YORK AVE., N.W.
WASHINGTON, DC 20005

In re Application of :
Dolors Sala et al :
Application No. 10/316,181 : ON PETITION
Filed: December 11, 2002 :
Attorney Docket No. 1875.2300002

This is a decision on the petition, filed February 5, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 12, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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Paper No.

FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO CA 94304

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MAR 29 2010

OFFICE OF PETITIONS

Applicant: Grant et al	:	DECISION ON PETITION
Patent Number: 7,452,912	:	under 37 CFR 1.705(d)
Issue Date: Nov. 18, 2008		
Application No. 10/316,189	:	ON REQUEST FOR RECONSIDERATION
Filed: December 11, 2002	:	OF PATENT TERM ADJUSTMENT
Atty. Docket Number: 342837-1651	:	
	:	

This is a decision on the petition filed on December 9, 2008, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred and sixty-tree (763) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended is **GRANTED to the extent herein indicated.** However, the patent term adjustment is eight hundred and sixty four (864) days, rather than the requested seven hundred and sixty three.

The Office notes that the amount of "B delay" occurring in this application is six hundred and fifty-one (651) days and the overlapping amount between "A" and "B" is three hundred and three days (303)days.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The applicant is giving **one month or thirty (30) days** whichever is longer to reply to this DECISION. After the response period has elapsed, the Office will *sua sponte* issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by eight hundred and sixty-four (864) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Maria Nuzzolillo, (571) 272-8150.

/Kery Fries/

Kery 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

Day : Monday
Date: 3/29/2010

PALM INTRANET

Time: 08:37:19

PTA Calculations for Application: 10/316189			
Application Filing Date:	12/11/2002	PTO Delay (PTO):	701
Issue Date of Patent:	11/18/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	185
Post-Issue Petitions:	0	Total PTA (days):	864
PTO Delay Adjustment:	348		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
73	03/29/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	348		
69.5	10/29/2008	PTA 36 MONTHS			
69	11/18/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
68	10/14/2008	EXPORT TO FINAL DATA CAPTURE			
67	10/13/2008	DISPATCH TO FDC			
66	10/10/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
65	10/08/2008	ISSUE FEE PAYMENT VERIFIED			
64	10/08/2008	ISSUE FEE PAYMENT RECEIVED			
63	08/13/2008	FINISHED INITIAL DATA CAPTURE			
62	07/21/2008	EXPORT TO INITIAL DATA CAPTURE			
61	07/17/2008	MAIL NOTICE OF ALLOWANCE			
60	07/16/2008	ISSUE REVISION COMPLETED			
59	07/16/2008	DOCUMENT VERIFICATION			
58	07/16/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
57	07/16/2008	CASE DOCKETED TO EXAMINER IN GAU			
56	07/07/2008	NOTICE OF ALLOWABILITY			
55	04/24/2008	DATE FORWARDED TO EXAMINER			
54	04/07/2008	RESPONSE AFTER NON-FINAL ACTION			
53	01/08/2008	MAIL NON-FINAL REJECTION			
52	12/10/2007	NON-FINAL REJECTION			
51	09/28/2007	DATE FORWARDED TO EXAMINER			
50	09/24/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
49	09/28/2007	DATE FORWARDED TO EXAMINER			

48	09/24/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		2	45
47	09/28/2007	DISPOSAL FOR A RCE / CPA / R129			
46	09/24/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
45	06/22/2007	MAIL FINAL REJECTION (PTOL - 326)			
44	06/20/2007	FINAL REJECTION			
43	04/13/2007	DATE FORWARDED TO EXAMINER			
42	04/10/2007	RESPONSE AFTER NON-FINAL ACTION		90	40
41	04/10/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
40	10/10/2006	MAIL NON-FINAL REJECTION	317		29
39	10/02/2006	NON-FINAL REJECTION			
38	12/11/2002	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
37	09/25/2006	CASE DOCKETED TO EXAMINER IN GAU			
36	05/04/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
34	12/20/2005	CASE DOCKETED TO EXAMINER IN GAU			
33	09/30/2005	CORRESPONDENCE ADDRESS CHANGE			
32	08/16/2005	MAIL APPEALS CONF. REQUEST DEFECTIVE			
30	08/05/2005	DATE FORWARDED TO EXAMINER			
29	07/27/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
27	08/05/2005	PRE-APPEALS CONFERENCE DECISION - REQUEST DEFECTIVE			
23	06/27/2005	MAIL RESTRICTION REQUIREMENT			
22	06/23/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
21	06/23/2005	CASE DOCKETED TO EXAMINER IN GAU			
20	04/08/2005	DATE FORWARDED TO EXAMINER			
19	03/31/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
18	03/01/2005	MAIL RESTRICTION REQUIREMENT	384		-1
17	02/28/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
16	02/07/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	04/29/2004	PRELIMINARY AMENDMENT			
14	04/29/2004	WORKFLOW INCOMING AMENDMENT IFW			
13	01/21/2004	CASE DOCKETED TO EXAMINER IN GAU			
12	01/21/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	01/21/2004	REFERENCE CAPTURE ON IDS			
10.7	12/11/2002	INFORMATION DISCLOSURE STATEMENT (IDS)			

		FILED			
10	12/11/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	12/11/2002	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
8	10/24/2003	APPLICATION DISPATCHED FROM OIPE			
7	10/24/2003	APPLICATION IS NOW COMPLETE			
6	08/25/2003	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM		93	5
5	02/24/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	02/19/2003	CLEARED BY L&R (LARS)			
3	01/27/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	12/17/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/11/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,452,912 B2

DATED : November 18, 2008 **Draft**

INVENTOR(S) : Grant 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 (516) days

Delete the phrase "by 516 days" and insert – by 864 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 082504

COOLEY GODWARD LLP
ATTN: PATENT GROUP
FIVE PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306-2155

OCT - 2 2004

In re Application of:	:	
ROBERT GILMORE	:	
Serial No.: 10/316,198	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: December 09, 2002	:	
Attorney Docket No.: **MOBI-006/01US**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed May 14, 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 William S. Galliani, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

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

All future communications from the Office will be directed to the below address, as requested by assignee, until otherwise notified by applicant.

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

Edward Westin

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

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

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Foley & Lardner LLP
1530 Page Mill Road
Palo Alto CA 94304

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OFFICE OF PETITIONS

In re Application of	:	
Thorsett et al.	:	
Application No. 10/316,205	:	ON PETITION
Filed: December 11, 2002	:	
Attorney Docket No. 342837-1453	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 13, 2005, 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 30, 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 October 1, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500.00; and (3) an adequate statement of unintentional delay. The USPTO mistakenly charged petitioner's Deposit Account an extension of time fee in the amount of $1,590.00. This fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

HONEYWELL INTELLECTUAL PROPERTY INC
PATENT SERVICES
101 COLUMBIA DRIVE
P O BOX 2245 MAIL STOP AB/2B
MORRISTOWN, NJ 07962

In re Application of
Mark D. Moser, et al.
Application No. 10/316,224
Filed: December 10, 2002
Attorney Docket No. 106411

ON PETITION

This is a decision in response to the petition under 37 CFR 1.182, filed January 19, 2007, requesting expedited consideration of a simultaneously filed petition to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition under 37 CFR 1.182 is **GRANTED**. A decision on the petition under 37 CFR 1.137(b) follows.

A review of the record discloses that the application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed March 23, 2006. A Notice of Abandonment was mailed on September 28, 2006. On January 19, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

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. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application is being referred to Technology Center AU 1755 for consideration of the amendment filed January 19, 2007.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: KURT D. VAN TASSEL
25 EAST ALGONQUIN ROAD
DES PLAINES, IL 60017

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Paper No. 5

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

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DEC 29 2008

OFFICE OF PETITIONS

In re Application of :
Leena P. Buchwalter et al :
Application No. 10/316,254 :
Filed: December 10, 2002 :
Attorney Docket No. YOR920010774US2 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 7, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to the Office of Patent Application Processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 11

S.C. JOHNSON & SON, INC.
1525 HOWE STREET
RACINE, WI 53403-2236

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NOV 1 9 2004

OFFICE OF PETITIONS

In re Application of :
Robert G. Gray et al :
Application No. 10/316,272 : ON PETITION
Filed: December 11, 2002 :
Attorney Docket No. J-3356A :

This is a decision on the petition under 37 CFR 1.137(b), filed October 25, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 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 June 23, 2004.

The filing of a terminal disclaimer is unnecessary as a condition for revival pursuant to the provisions of 37 CFR 1.137(b) under the current rules. Therefore, the terminal disclaimer filed with the petition will not be processed and the $110.00 fee is being credited to petitioner's deposit account.

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

The application file is being forwarded to Technology Center AU 3749.

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

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P.O. Box 1450
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Paper No. 6

SIEMENS CORPORATION
ATTN: ELSA KELLER, LEGAL ADMINISTRATOR
INTELLECTUAL PROPERTY DEPARTMENT
186 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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JUN 0 8 2004
OFFICE OF PETITIONS

In re Application of	:	
Caspi, et al.	:	
Application No. 10/316,279	:	ON PETITION
Filed: December 11, 2002	:	
Attorney Docket No. 2002P16859US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 23, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed January 21, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 22, 2003.

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

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

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

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John D. Cowart
Teradata Law IP, WHQ-4W
NCR Corporation
1700 S. Patterson Blvd.
Dayton, OH 45479-0001

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APR 24 2006
OFFICE OF PETITIONS

In re Application of	:	
Morris et al.	:	
Application No. 10/316,289	:	
Filed: December 11, 2003	:	DECISION ON
Attorney Docket Number: 10948	:	PETITION

This is a decision in response to the Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181(a), filed March 20, 2006.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly respond to the non-final Office action, mailed August 11, 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 response having been received, the application became abandoned on November 12, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition, Petitioner has demonstrated non-receipt of the Notice by a preponderance of the evidence.

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

No fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 2161 for re-mailing of the Office action.

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

Derek L. Woods
Attorney
Office of Petitions

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Dept. 4300, M/S 27-4-A
AMGEN INC.
One Amgen Center Drive
Thousand Oaks CA 91320-1799

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In re Application of	:	
Ning Chen, et al.	:	
Application No. 10/316,295	:	ON PETITION
Filed: December 10, 2002	:	
Attorney Docket No. A-689A	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 10, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 11, 2007. The Notice of Abandonment was mailed April 10, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1624 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.

Chris Bottorff
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application
Chen, et al.
Application No. 10/316,295
Filed: December 2, 2002
Dkt. No.: A-689A

: PATENT TERM ADJUSTMENT

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.702(b) and 1.705(b)," filed March 26, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is 722 days, not zero days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for

reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

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

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

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

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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

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OFFICE OF PETITIONS

In re Patent No. 7,582,657
Issued: September 1, 2009
Application No. 10/316,295
Filed: December 10, 2002
Dkt. No.: A-689A

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the petition filed on September 11, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by 707 days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on December 11, 2005 and ends on April 17, 2008, the day before the RCE was filed, and not April 10, 2008, as calculated by patentees. See, 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 859 days not 851 days. As such, the correct patent term adjustment is 715 days, not 707 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See, 37 CFR 1.323(a)(4).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 715 days.

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

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,582,657 B2

DATED : **September 1, 2009** **DRAFT**

INVENTOR(S) : Chen, 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 626 days

Delete the phrase "by 626 days" and insert – by 715 days--

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-145

MAY 23 2005

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
EBAY
P.O. Box 2938
Minneapolis, MN 55402-0938

In re application of
Alan S. Fisher et al. :
Application No. 10/316,296 :
Filed: December 10, 2002 :
For: METHOD AND SYSTEM FOR OFFERING AN ITEM FOR SALE USING A USER-SELECTABLE BID INDICIA :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on November 18, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

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

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

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

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

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

The request to withdraw as attorney in this application is not approved as moot because a revocation of power of attorney to Blakely Sokoloff Taylor & Zafman and a new power of attorney to the attorneys of Schwegman, Lundberg, Woessner & Kluth, P.A. was submitted to the United States Patent and Trademark Office on May 02, 2005. The power of attorney therefore has already been withdrawn as per the Notice to that effect mailed May 06, 2005.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(517) 272-6611

SNM/pav: 05/18/05

CC : BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

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Commissioner for Patents
United States Patent and Trademark Office
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MAY 23 2005

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
EBAY
P.O. Box 2938
Minneapolis, MN 55402-0938

In re application of Alan S. Fisher et al. Application No. 10/316,297 Filed: December 10, 2002 For: METHOD AND SYSTEM FOR PERFORMING PROXY BIDDING	: : : : :	**DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY**

This is a decision on the request filed on November 22, 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 this application is not approved as moot because a revocation of power of attorney to Blakely Sokoloff Taylor & Zafman and a new power of attorney to the attorneys of Schwegman, Lundberg, Woessner & Kluth, P.A. was submitted to the United States Patent and Trademark Office on May 02, 2005. The power of attorney therefore has already been withdrawn as per the Notice to that effect mailed May 09, 2005.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(517) 272-6611

SNM/pav: 05/18/05

CC : BLAKELY SOKOLOFF TAYLOR & ZAFMAN
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MINNEAPOLIS MN 55402

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JUL 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Alan S. FISHER et al.	:	
Application No. 10/316,297	:	DECISION ON PETITION
Filed: October 23, 2009	:	
Attorney Docket No. 2043.086U12	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 22, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Requirement for Information under 37 CFR 1.105 mailed, April 22, 2009, which set a shortened statutory period for reply of two (2) months. A five (5) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 23, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the required response, (2) the petition fee of 1,620.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Requirement for Information of April 22, 2009 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 3684 for appropriate action by the Examiner in the normal course of business on the reply received.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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JAN 24 2005

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 Wilshire Boulevard
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Los Angeles, CA 90025-1030

In re application of
Alan S. Fisher et al.
Application No. 10/316,298
Filed: December 10, 2002
For: METHOD AND SYSTEM FOR PROVIDING SIMULTANEOUS ON-LINE AUCTIONS

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on November 22, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

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

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

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

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

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

The request to withdraw as attorney in the above-identified application is not approved as moot because the attorney making the request does not now have, and apparently never has had, power of attorney in this application. Further, the request does not comply with Item B).

As to Item B), the reason "Discontinuation of the attorney/client relationship" is not appropriate since it is not clear that the client initiated the discontinuation, or that the client knowingly or freely assents to the transfer to new counsel. A proper reason for withdrawal is enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.

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

SNM/pav: 01/07/05

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OFFICE OF PETITIONS

Ido Tuchman
Suite 503
69-60 108th Street
Forest Hills NY 11375

In re Application of
Chang, et al.
Application No. 10/316,312
Filed: December 10, 2002
Attorney Docket No. YOR920010231US1

DECISION GRANTING PETITION

This is a decision on the petition filed February 21, 2003, under 37 CFR 1.10(c) requesting that the above-cited application be accorded a filing date of December 10, 2002, rather than the presently accorded filing date of December 11, 2002.

Petitioner alleges that the application was deposited with the Express Mail Service on Dece,ber 10, 2002. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EU621054283US (the same Express Mail label number was placed on the original application papers located in the official file) showing a "date-in" of December 10, 2002.

In view of the above, the petition is granted.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 10, 2002.

Any inquiries related to this decision should be directed to the underisgned (703)305-0010

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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In re application of
Alan S. Fisher et al.
Application No. 10/316,324 :
Filed: December 10, 2002 :
For: METHOD AND SYSTEM FOR PERFORMING A PROGRESSIVE AUCTION :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on November 22, 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. For approval of such a request the following conditions must 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) 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);
C) 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;
D) The applicant or patent owner must have been notified of the withdrawal as provided for in 37 CFR 1.36.

10/316,324

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), The statement included in the request, "Discontinuation of attorney client relationship," does not satisfy one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6). The attorney may not discontinue the attorney client relationship on his own accord.

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

KJD/slb: 01/28/05

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In re application of
Alan S. Fisher et al.
Application No. 10/316,325 :
Filed: December 10, 2002 :
For: METHOD AND SYSTEM FOR PERFORMING A BID QUANTITY ADJUSTMENT :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on November 18, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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. For approval of such a request the following conditions must 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) 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);
C) 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;
D) The applicant or patent owner must have been notified of the withdrawal as provided for in 37 CFR 1.36.

10/316,325

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), The statement included in the request, "Discontinuation of attorney client relationship," does not satisfy one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6). The attorney may not discontinue the attorney client relationship on his own accord.

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

KJD/slb: 01/28/05

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LOS ANGELES, CA 90025-1030

In re application of
Alan S. Fisher et al.
Application No. 10/316,326 :
Filed: December 10, 2002 :
For: METHOD AND SYSTEM FOR VALIDATING A BID :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on November 22, 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. For approval of such a request the following conditions must 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) 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);
C) 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;
D) The applicant or patent owner must have been notified of the withdrawal as provided for in 37 CFR 1.36.

10/316,326

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), The statement included in the request, "Discontinuation of attorney client relationship," does not satisfy one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6). The attorney may not discontinue the attorney client relationship on his own accord.

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

KJD/slb: 01/28/05

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 05/10/2010

Applicant	: Joern Naujokat	: DECISION ON REQUEST FOR
Patent Number	: 7626437	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/316,337	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/11/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **496** 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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YAKOV FLEYTMAN
3233 HICKORY DRIVE
LAKE ORION MI 48359

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JUL 3 1 2006
OFFICE OF PETITIONS

In re Application of Yakov Fleytman Application No.10/316,347 Filed: December 11, 2002 Title of Invention: Power Take-Off Unit With Worm Gearshift	: : : : : :	ON PETITIONS

This is a decision on the petition filed March 16, 2005 under 37 CFR 1.181, petition to withdraw the holding of abandonment. Petitioner has also filed petitions under 37 CFR 1.137(a) and (b) in the alternative.

The petition to revive under 37 C.F.R. § 1.181 is **DISMISSED**.
The petition to revive under 37 C.F.R. § 1.137(a) is **DISMISSED.**
The petition to revive under 37 C.F.R. § 1.137(b) is **DISMISSED**.

This above-identified application became abandoned for failure to file a response to a non-final Office Action which was mailed on April 23, 2003. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on July 24, 2003. A Notice of Abandonment was mailed on December 4, 2003.

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

37 CFR 1.33(b) states in pertinent part:

> 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.

A review of the record shows that a revocation of power of attorney or authorization of agent was submitted to the Office on May 5, 2003. The revocation was signed by sole inventor Yakov Fleytman. A revocation becomes effective on the date of receipt. In this instance the revocation was effective May 5, 2003. See MPEP 402.05. As such the petitioner can not be construed to be an attorney or agent acting in a representative capacity. Pursuant to 37 CFR 1.33 (b)(2) and 1.34(a).

Ryan Massey, the party signing the instant petition, is signing the petition on behalf of the purported assignee, compliance with 37 CFR 3.73(b) must be satisfied. 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Director; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office.

Petitioner states that the above-identified application was assigned to New Venture Gear by inventor Yakov Fleytman via an assignment of the parent application 09/687,134 recorded at Reel 01482, Frame 0953. However, a review of the above Reel and Frame number shows such an assignment has not been recorded. To the extent Petitioner maintains an assignment was recorded such evidence should be provided.

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) 272-8300
ATTN: Office of Petitions

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Ryan Massey
Harness, Dickey & Pierce, P.L.C
P.O. Box 828
Bloomfield Hills, MI 48303

UNITED STATES PATENT AND TRADEMARK OFFICE

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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SEP 14 2007

OFFICE OF PETITIONS

In re Application of
Yakov Fleytman
Application No.10/316,347
Filed: December 11, 2002
Title of Invention: Power Take-Off Unit With Worm Gearshift

ON PETITIONS

This is a decision on the renewed petition filed September 29, 2006 under 37 CFR 1.181, petition to withdraw the holding of abandonment. Petitioner has also filed petitions under 37 CFR 1.137(a) and (b) in the alternative.

The petition to revive under 37 C.F.R. § 1.181 is **DISMISSED**.

The petition to revive under 37 C.F.R. § 1.137(a) is **DISMISSED**.

The petition to revive under 37 C.F.R. § 1.137(b) is **GRANTED**.

This above-identified application became abandoned for failure to file a response to a non-final Office Action which was mailed on April 23, 2003. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on July 24, 2003. A Notice of Abandonment was mailed on December 4, 2003. Petitions under 37 CFR §1.181, 1.137(a) and 1.137(b) were dismissed on July 31, 2006.

Petition to Withdraw the Holding of Abandonment

Petitioner contends that the holding of abandonment should be withdrawn because the April 23, 2003 Office action was mailed to the incorrect address. The Office action was mailed to the sole inventor Yakov Fleytman. Inventor Fleytman submitted a change of correspondence address via customer number 32452 on April 16, 2003. The change of address was entered via the electronic business center. Accordingly, the April 23, 2003 office action was properly mailed. As such, the docket reports submitted to establish non-receipt are not persuasive to establish that the holding of abandonment should be

withdrawn.

Petition to Revive Under 37 CFR 1.137(a)

A grantable petition under 37 C.F.R. § 1.137(a) must be accompanied by:

(1) the required reply,[1]

(2) the petition fee,

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

(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

The instant petition lacks item (3).

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 37 C.F.R. § 1.137(a).

The Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Director to have been "unavoidable." See, 37 C.F.R. § 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is applicable to ordinary human affairs, and requires no more greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case by case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2D 1130 (N.D. Ind. 1987).

---

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

Petitioner's argument that the failure to receive the Office Action was unavoidable is not persuasive. As indicated earlier the Office action was properly mailed to the correspondence address of record. Pursuant to 37 CFR 3.73(b) the inventor is presumed to be the owner of a patent application, and any patent that may issue therefrom, unless there is an assignment. Although petitioner stated an assignment was recorded showing that inventor Fleytman assigned the above-identified patent to New Venture Gear, the assignment was not recorded in the Office until September 25, 2006. Thus, the assignment was submitted well after the change of address submitted by the nventor was entered. Further, pursuant to 37 CFR 3.71 an assignee may prosecute an application only after the assignee becomes of record . An assignee becomes of record by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee. Accordingly, the assignee did not become of record until the 3.73(b) statement was submitted with the instant petition.

The failure to receive the non-final Office action was not unavoidable. The Office action was properly mailed.

Petition to Revive Under 37 CFR 1.137(b)

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by the required reply, the required petition fee, and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional. The filing of a petition under 37 C.F.R. § 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 C.F.R. § 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 C.F.R. § 1.137(b).

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). 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 requirements for a grantable petition under 37 CFR §1.137(b) have been met. This

petition is hereby **Granted**.

The change of address has been entered.

The application is being referred to be forwarded to Art Unit 3682 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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DATE MAILED: June 26, 2003
PAPER NO. 6

PEARNE & GORDON LLP
526 SUPERIOR AVENUE EAST
SUITE 1200
CLEVELAND, OH 44114-1484

In re Application of	: HIROSHI HAJI
Application No.	: 10/316,348
Filed:	: 12/11/02
Attorney Docket No.	: 35204

RESPONSE TO REQUEST FOR REFUND

This is in response to your letter submitted on February 5, 2003, wherein you requested a refund of $36.00

The request for refund is **DENIED.**

After thorough inspection of U.S. Patent and Trademark Office physical records and Revenue Accounting Management financial records, it is determined that you are not entitled to a refund of $36.00.

According to our records serial number 10/316,348 was filed on December 11, 2002, with a total of 34 claims with 3 independent claims.

Filing Fee	= $740.00
Multiply claims in excess of 3	= $280.00
Additional claims over 20	= $252.00
Assignment	= $ 40.00
Total amount due	**= $1,312.00**

Applicant submitted a check in the amount of $1,276.00. All fees were paid with the exception of the assignment fee. Therefore, applicant was refunded $4.00 and the deposit account was charged $40.00 for the assignment.

Any inquiry regarding this matter stated above should be directed to Merilyn S. Watts at (703)308-1730.

Merilyn S. Watts

Merilyn Watts
Supervisory Legal Instrument Examiner
Group 3700

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DENNIS T. GRIGGS
17950 PRESTON ROAD, STE. 1000
DALLAS, TX 75252

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OFFICE OF PETITIONS

In re Application of	:	
John S. Hohenshelt	:	
Application No. 10/316,356	:	ON PETITION
Filed: December 11, 2002	:	
Attorney Docket No. B6225.1022.4305	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed April 7, 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 July 8, 2004.

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

The application is being forwarded to Technology Center AU 3749 for further processing.

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

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OFFICE OF PETITIONS

NGUYEN & ASSOCIATES
16168 BLOSSOM HILL ROAD
LOS GATES CA 95032

In re Application of	:	
Leonardo Vainsencher, et al.	:	
Application No. 10/316,394	:	DECISION ON REQUEST
Filed: December 11, 2002	:	TO WITHDRAW
Attorney Docket No. MEDIAQ-024	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed March 13, 2006.

The request is **APPROVED**.

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

The request was signed by Frank Nguyen on behalf of all the attorneys of record. Accordingly, there is no attorney of record at this time.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named inventor or (2) the assignee of the entire interest. All future communications from the Office will be directed to the first named inventor at the first copied address below until otherwise properly notified by applicant. A copy of this decision is also being mailed to the address noted on the request.

Applicant should note that there is no outstanding Office action that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Sherry D. Brinkley at 571-272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee:

cc: LEONARDO VAINSENCHER
5497 AMBY DRIVE
SAN JOSE CA 95124

ANTHONY MURABITO, PARTNER
WAGNER MURABITO & HAO
TWO NORTH MARKET STREET
SAN JOSE, CA 95113

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NVIDIA C/O MURABITO, HAO & BARNES LLP
TWO NORTH MARKET STREET, THIRD FLOOR
SAN JOSE, CA 95113

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AUG 0 7 2008

OFFICE OF PETITIONS

In re Application of :
Leonardo Vainsencher et al :
Application No. 10/316,394 : DECISION ON PETITION
Filed: December 11, 2002 :
Attorney Docket No. NVID-P000894 :

This is a decision on the petition, filed November 20, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED.**

This application was held abandoned for failure to reply to the final Office action mailed July 28, 2006, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on November 2, 2007.

Petitioner asserts that the Office action dated July 28, 2006 was mailed to an incorrect address.

A review of the written record indicates a Power of Attorney was received to the USPTO on July 24, 2006 but was not process until September 21, 2007 which is after the final Office action was mailed.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center AU 2193 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

NGYUEN & ASSOCIATES
16168 Blossom Hill Road
Los Gates, CA 95032

In re Application of	:	
Leonardo VAINSENCHER et al.	:	
Application No. 10/316,401	:	DECISION ON PETITION
Filed: December 11, 2002	:	TO WITHDRAW
Attorney Docket No. MEDIAQ-025	:	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 13, 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 Frank Nguyen on behalf of all attorneys of record who are associated with customer No. 35577.

All attorneys/agents associated with the Customer Number 35577 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 Monica Graves at 571-272-7253.

for David Bucci
Petitions Examiner
Office of Petitions

cc: Leonardo Vainsencher
5497 Amby Drive
San Jose, CA 95124

cc: Anthony Murabito
WAGNER MURABITO & HAO
Two North Market Street, Third Floor
San Jose, CA 95113

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Paper No. 6

MORRIS E. COHER
SUITE 217
1122 CONEY ISLAND AVENUE
BROOKLYN. NY 11230-2345

COPY MAILED
MAR 17 2004
OFFICE OF PETITIONS

In re Application of	:	
Capsi et al.	:	
Application No. 10/316,409	:	
Filed: December 11, 2002	:	ON PETITION
Attorney Docket Number:	:	
02P16856US	:	

This is a decision in response to the petition under 37 CFR 1.137(b), filed December 23, 2003, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

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

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Provisional Application (hereinafter "Notice"), mailed January 22, 2003. The Notice required an executed oath or declaration and a late filing fee surcharge, and also required replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121. The Notice set a two (2) month period for reply from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned March 23, 2003. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

Applicant files the instant petition and executed oath/declaration and late filing fee oath or declaration surcharge in an effort to revive the application; however, Applicant has failed to file replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121.

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)).

This petition lacks item (**2**) above. Applicant must file replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121.

The application file will be retained in the Office of Petitions to await the required reply for a period of two months; thereafter, the file will be forwarded to the files repository.

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

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

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

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA 22202-3513

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 7

Siemens Corporation
Attn: Elsa Keller, Legal Administrator
Intellectual Property Department
186 Wood Avenue South
Iselin, NJ 08830

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MAR 2 4 2004

OFFICE OF PETITIONS

In re Application of :
Capsi et al. :
Application No. 10/316,409 : CORRECTED DECISION
Filed: December 11, 2002 : ON PETITION
Attorney Docket Number: :
02P16856US :

This is a decision in response to the petition under 37 CFR 1.137(b), filed December 23, 2003, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

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

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Provisional Application (hereinafter "Notice"), mailed January 22, 2003. The Notice required an executed oath or declaration and a late filing fee surcharge, and also required replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121. The Notice set a two (2) month period for reply from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned March 23, 2003. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

Applicant files the instant petition and executed oath/declaration and late filing fee oath or declaration surcharge in an effort to revive the application; however, Applicant has failed to file replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121.

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)).

This petition lacks item (**2**) above. Applicant must file replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121.

The application file will be retained in the Office of Petitions to await the required reply for a period of two months; thereafter, the file will be forwarded to the files repository.

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

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

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

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA 22202-3513

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

MORRIS E. COHER
SUITE 217
1122 CONEY ISLAND AVENUE
BROOKLYN. NY 11230-2345

COPY MAILED
APR 28 2004
OFFICE OF PETITIONS

In re Application of	:	
Caspi et al.	:	
Application No. 10/316,409	:	
Filed: December 11, 2002	:	ON PETITION
Attorney Docket Number:	:	
02P16856US	:	

This is a decision in response to the Renewed Petition under 37 CFR 1.137(b), filed April 16, 2004, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Provisional Application (hereinafter "Notice"), mailed January 22, 2003. The Notice required an executed oath or declaration and a late filing fee surcharge, and also required replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121. The Notice set a two (2) month period for reply from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned March 23, 2003. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

In response to the Notice, on December 23, 2003, Petitioner filed a petition to revive the application under 37 CFR 1.137(b), along with the basic filing fee, an executed oath/declaration and a late filing fee or oath or declaration surcharge; however, replacement drawings were not filed at that time.

That petition was dismissed in a Decision mailed March 24, 2004, for failing to file replacement drawings in response to the Notice.

With the instant Renewed Petition, Petitioner has filed replacement drawings in response to the Notice and completed the requirements of a grantable petition under 37 CFR 1.137(b).

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

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 11

Siemens Corporation
Attn: Elsa Keller, Legal Administrator
Intellectual Property Department
186 Wood Avenue South
Iselin, NJ 08830

COPY MAILED
MAY 0 5 2004
OFFICE OF PETITIONS

In re Application of	:	
Caspi et al.	:	CORRECTED
Application No. 10/316,409	:	DECISION
Filed: December 11, 2002	:	ON PETITION
Attorney Docket Number:	:	
02P16856US	:	

This is a decision in response to the Renewed Petition under 37 CFR 1.137(b), filed April 16, 2004, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Provisional Application (hereinafter "Notice"), mailed January 22, 2003. The Notice required an executed oath or declaration and a late filing fee surcharge, and also required replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121. The Notice set a two (2) month period for reply from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned March 23, 2003. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

In response to the Notice, on December 23, 2003, Petitioner filed a petition to revive the application under 37 CFR 1.137(b), along with the basic filing fee, an executed oath/declaration and a late filing fee or oath or declaration surcharge; however, replacement drawings were not filed at that time.

That petition was dismissed in a Decision mailed March 24, 2004, for failing to file replacement drawings in response to the Notice.

With the instant Renewed Petition, Petitioner has filed replacement drawings in response to the Notice and completed the requirements of a grantable petition under 37 CFR 1.137(b).

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

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 9

RICHARD P. BERG
LADAS & PARRY
SUITE 2100
5670 WILSHIRE BLVD
LOS ANGELES, CA 90036-5679

COPY MAILED
AUG 1 4 2003
OFFICE OF PETITIONS

In re Application of	:	
Pietro Padovani	:	
Application No. 10/316,458	:	NOTICE
Filed: December 10, 2002	:	
Attorney Docket No. B-4898 620488-0	:	

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 1732.

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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NGUYEN & ASSOCIATES
16168 BLOSSOM HILL ROAD
LOS GATES, CA 95032

COPY MAILED
JUN 15 2006
OFFICE OF PETITIONS

In re Application of	:	
Leonardo Vainsencher et al	:	
Application No. 10/316,462	:	DECISION ON PETITION
Filed: December 11, 2002	:	TO WITHDRAW
Attorney Docket No. MediaQ-023	:	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 13, 2006.

The petition 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 Frank Nguyen on behalf of all attorneys/agents of record.

All attorneys/agents of record have been withdrawn.

Applicants are 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) the interventing assignee of the entire interest. 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 applicants.

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

This application is being referred to Technology Center AU 2133.

David Bucci
Petitions Examiner
Office of Petitions

cc: LEONARDO VAINSENCHER
5497 AMBY DRIVE
SAN JOSE, CA 95124

ANTHONY MURABITO, PARTNER
WAGNER MURABITO & HAQ
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE, CA 95113

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
10/316,462	12/11/2002	Leonardo Vainsencher	MediaQ-023

CONFIRMATION NO. 4017

OC000000019231195

35577
NGUYEN & ASSOCIATES
16168 BLOSSOM HILL ROAD
LOS GATES, CA 95032

Date Mailed: 06/12/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/13/2006.

- 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.

Wan Laymon

WAN LAYMON
OP (571) 272-3220

FORMER ATTORNEY/AGENT COPY

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.

WAGNER, MURABITO & HAO, LLP
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE CA 95113

COPY MAILED

JAN 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Vainsencher et al.	:	DECISION ON
Application No. 10/316,462	:	PETITION
Filed: December 11, 2002	:	
For: ERROR CORRECTION FOR	:	
FLASH MEMORY	:	

This is a decision on the "PETITION FOR WITHDRAWAL OF ABANDONMENT BASED ON FAILURE TO RECEIVE PTO COMMUNICATIONS PURSUANT TO PTO NOTICE IN 1156 OG 53 AND 37 CFR 1.181(a)" filed November 22, 2006.

The above-identified application became abandoned for failure to pay the Issue Fee (and Publication Fee) within three months of the mailing date, July 13, 2006, 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 October 14, 2006. A courtesy Notice of Abandonment was mailed on November 15, 2006.

Applicants filed the instant petition on the basis that applicants' representative did not receive the Office action. Applicants state that a search of the file jacket and docket records indicates that the Office communication was not received. In support thereof, applicants submit a copy of the docket records where the non-received Office communication would have been entered had it been received and docketed.

Petitioner's evidence has been considered, but not found persuasive that the holding of abandonment should be withdrawn based on nonreceipt of the Office communication. The record

shows that the Office action was mailed to the correspondence address of record in effect on the day of mailing. By decision mailed June 15, 2006, a request to withdraw the previous attorney of record was granted. However, the request to change the correspondence address of record was not accepted. Applicants, with a courtesy copy mailed to the first-named inventor and to the present law firm, were advised that all future correspondence from the Office would be directed to the first named inventor until otherwise properly notified by the applicants. No proper change of correspondence address was filed until July 24, 2006.

Accordingly, the Office communication mailed July 13, 2006 was properly mailed to the first named inventor. Petitioner has not submitted evidence to overcome the presumption that the Office communication was received at that address. Rather, the evidence supports a conclusion that the abandonment was due to the applicants' failure to respond with proper notification of the change in correspondence address. Under the circumstances, withdrawal of the holding of abandonment is not warranted.

The petition under § 1.181 is **DISMISSED**.

Any request for reconsideration must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are not permitted. See 1.181(f).

Alternatively, applicants may seek revival under the provisions of 37 CFR 1.137. Such a request should include a cover letter entitled "Petition under 37 C.F.R. §1.137(a)" or "Petition under 37 C.F.R. §1.137(b)," as appropriate.

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

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

NVIDIA C/O MURABITO, HAO &
BARNES LLP
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE CA 95113

COPY MAILED

APR 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Vainsencher et al.	:	DECISION ON
Application No. 10/316,462	:	PETITION
Filed: December 11, 2002	:	
For: ERROR CORRECTION FOR	:	
FLASH MEMORY	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed January 31, 2007.

The petition is **GRANTED**.

The above-identified application became abandoned effective October 14, 2006 for failure to pay the Issue Fee (and Publication Fee) within three months of the mailing date, July 13, 2006, of the Notice of Allowance and Fee(s) Due. By decision mailed January 25, 2007, the initial "PETITION FOR WITHDRAWAL OF ABANDONMENT BASED ON FAILURE TO RECEIVE PTO COMMUNICATIONS PURSUANT TO PTO NOTICE IN 1156 OG 53 AND 37 CFR 1.181(a)" filed November 22, 2006 was dismissed.

In response, applicants filed the instant petition based on unintentional delay. The petition included the required reply[1] in the form of payment of the Issue Fee and Publication 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.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded to the Publishing Division for processing into a patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

#4

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

MAILED

MAR 2 2004

Office of the Director
Group 3600

DUNLAP, CODDING & ROGERS P.C.
PO BOX 16370
OKLAHOMA, CITY OK 73113

Paper No. 6

In re Application of
Donald E. Weder, et al.
Application No. 10/316,466
Filed: December 10, 2002
For: CONVEYABLE COVER FORMER AND FASTENING SYSTEM

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's Petition to Withdrawal the Holding of Abandonment filed in the United States Patent and Trademark Office on January 14, 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 18, 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 filed with the petition, then to the examiner for prompt action on the response.

cps/2/23/04

STEVEN N. MEYERS
SPECIAL PROGRAM 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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

COPY MAILED

DEC 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Stein A. Lundby	:	
Application No. 10/316,480	:	DECISION DISMISSING PETITION
Filed: December 10, 2002	:	
Attorney Docket No. 990418C1	:	

This is a decision in response to the petition entitled "Petition to Withdraw From Issuance Under 37 CFR 1.313(c)" filed December 20, 2007.

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 25, 2007, with the issue fee being due on or before December 26, 2007. It is noted that the issue fee in this case has not been paid.

The filing of a petition under 37 CFR 1.313 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 the undersigned at (571) 272-3204.

The matter is being referred to Technology Center AU 2616 for appropriate processing of the RCE filed December 20, 2007, and for consideration of the concurrently filed amendment.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SMITH-HILL AND BEDELL, P.C.
16100 NW CORNELL ROAD, SUITE 220
BEAVERTON, OR 97006

COPY MAILED

MAR 19 2007

OFFICE OF PETITIONS

In re Patent No. 7,099,389 :
Issue Date: August 29, 2006 :
Application No. 10/316,483 :
Filed: December 10, 2002 :
Attorney Docket No. 85710P077 :

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THOMAS A. BECK, ESQ.
26 ROCKLEDGE LANE
NEW MILFORD CT 06776

MAILED

NOV 18 2009

OFFICE OF PETITIONS

In re Application of	:	
Stefanie Ruth Chiras et al	:	
Application No. 10/316,484	:	DECISION ON PETITION
Filed: December 11, 2002	:	
Attorney Docket No.	:	
YOR920010779US1	:	

This is a decision on the communication filed July 30, 2007, and supplemented on August 10, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a proper reply to the Ex Parte Quayle action mailed February 28, 2006. A Notice of Non-Compliant Amendment was mailed on May 8, 2006, which set a one (1) month period for reply. A reply was due on or before June 8, 2006.

Petitioner states that a reply was in fact timely filed on May 16, 2006. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on May 19, 2006 of, *inter alia,* a response (entitled "REMARKS"). A copy of the previously submitted reply accompanies the petition.

The response acknowledged as having been received in the USPTO on May 19, 2006 is not of record in the application file and has not to date been located. 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, it is concluded that the response was timely received in the USPTO but lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on May 19, 2006.

This application is being referred to Technology Center AU 2826 for appropriate action in the normal course of business on the reply received with the petition on August 10, 2009.

/KOC/
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

Patrick S. Yoder
Fletcher, Yoder & Van Someren
P.O. Box 692289
Houston, TX 77269-2289

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APR 20 2005

OFFICE OF PETITIONS

In re Patent No. 6,815,908

Issue Date: November 9, 2004

Application No. 10/316,509

Filed: December 11, 2002

Attorney Docket No. **RD28632/YOD GERD:0011**

ON PETITION

This is a decision on the petition filed December 13, 2004, 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**.

Deposit account 07-0868 will be charged $130.00 for the requisite fee.

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 22, 2006

TO SPE OF : ART UNIT 3723

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/316533 Patent No.: 6,949,012 B2

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

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

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

Elisha Evans
Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

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

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

Comments: These changes are OK.

LEE D. WILSON
PRIMARY EXAMINER

SPE

3723
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUN 07 2005

OFFICE OF PETITIONS

JAMES J. HILL
EMRICH & DITHMAR LLC
125 SOUTH WACKER DRIVE
SUITE 2080
CHICAGO IL 60606

In re Application of	:	
Joseph Immordino et al	:	
Application No. 10/316,541	:	ON PETITION
Filed: December 11, 2002	:	
Attorney Docket No. M/M 139	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 24, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed July 22, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 23, 2004.

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 $1,020 extension of time submitted with the petition on January 24, 2005 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This matter is being referred to Publishing Division.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

JAMES J. HILL
EMRICH & DITHMAR, LLC
125 SOUTH WACKER DRIVE, SUITE 2080
CHICAGO IL 60606-4401

COPY MAILED
SEP 22 2006
OFFICE OF PETITIONS

In re Application of :
Joseph Immordino Jr. et al. :
Application No. 10/316,541 :
Filed: December 11, 2002 :
Attorney Docket Number: M/M 139 :
Title: ADJUSTABLE HEAD ASSEMBLY :
FOR FLOOR BURNISHER :

DECSION ON PETITION UNDER
UNDER 37 C.F.R. §1.137(A)

This is a decision on the petition filed on April 18, 2006, pursuant to 37 C.F.R. §1.137(b), which is properly treated as a petition pursuant to 37 C.F.R. §1.137(a)[1], to revive the above-identified application.

The difference in the filing fees for these petitions will be refunded to Petitioner's Deposit Account, as authorized in the petition.

A Notice of Allowance and Issue Fee Due was mailed on July 22, 2004. The present application went abandoned on October 23, 2004, for failure to submit the issue and publication fees in a timely manner. A petition pursuant to 37 C.F.R. §1.137(b) was filed on January 24, 2005 along with the petition, issue, and publication fees. This petition was granted via the mailing of a decision on June 7, 2005. On July 5, 2005, a second Notice of Allowance and Issue Fee Due was mailed, indicating that no fees were due, and set a shortened statutory period for reply of three

1 A grantable petition pursuant to 37 CFR §1.137(a) must be accompanied by:
(1) the required reply;
(2) the petition fee;
(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) a terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to paragraph (d) of this section.

months. The second part of the form, PTOL-85B, was never returned to the Office. As such, the above-identified application became abandoned on October 6, 2005. A Notice of Abandonment was mailed on January 25, 2006.

With the present petition, Petitioner has submitted PTOL-85B, the petition fee, and a showing to the satisfaction of the Commissioner that the entire delay was unavoidable.

As such, the petition under 37 C.F.R. §1.137(a) is **GRANTED**.

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

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

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

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

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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WILDMAN HARROLD ALLEN & DIXON LLP
225 WEST WACKER DRIVE, SUITE 2800
CHICAGO IL 60606

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MAR 07 2008

OFFICE OF PETITIONS

In re Patent No. 7,137,876	:
Issue Date: November 21, 2006	:
Application No. 10/316,541	: DECISION DISMISSING PETITION
Filed: December 11, 2002	: UNDER 37 CFR 3.81(b)
Attorney Docket No. M/M 139	:

This is a decision on the petition, filed July 17, 2007, 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 **dismissed**.

Petitioner states that the correct assignee's name is **Minuteman International, Inc.**, of Addison, Illinois. The correct assignee's name was not included on the Fee Transmittal Form PTOL-85(b) at the time of payment of the issue fee.

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 instant request under 37 CFR 3.81(b) was not accompanied by a Form PTO/SB/44 (a blank copy is attached for your convenience) request for a certificate of correction as required by 3.81(b). As petitioner has failed to comply with the provisions

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

of 37 CFR 3.81(b), the request cannot be granted at this time. Additionally, the required fees are being charged to deposit account no. 23-2126 as authorized.

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

Karen Creasy
Petitions Examiner
Office of Petitions

Attachment: BLANK COPY OF FORM PTO/SB/44

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

Page _____ of _____

PATENT NO. :

APPLICATION NO.:

ISSUE DATE :

INVENTOR(S) :

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:

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

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.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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WILDMAN HARROLD ALLEN & DIXON LLP
225 WEST WACKER DRIVE, SUITE 2800
CHICAGO IL 60606

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JUL 0 8 2009

OFFICE OF PETITIONS

In re Patent No. 7,137,876	:	
Issue Date: November 21, 2006	:	
Application No. 10/316,541	:	ON PETITION
Filed: December 11, 2002	:	
Attorney Docket No. M/M 139	:	

This is a decision on the petition filed April 10, 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) 272-3208. 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.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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REED SMITH LLP
599 LEXINGTON AVENUE
NEW YORK, NY 10022-7650

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OFFICE OF PETITIONS

In re Patent No. 7,033,347 :
Issue Date: April 25, 2006 :
Application No. 10/316,545 :
Filed: December 11, 2002 :
Attorney Docket No. ANGiO/P-34/500622.20038 :

ON PETITION

This is a decision on the petition filed August 25, 2006, which is being treated under 37 CFR 3.81(b)[1] to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is granted.

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1]See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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THOMAS F. LENIHAN
TEKTRONIX, INC.
P.O. BOX 500, M/S 50-LAW
BEAVERTON, OR 97077-0001

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OFFICE OF PETITIONS

In re Application of	:	
Donald C. Kirkpatrick	:	
Application No. 10/316,548	:	DECISION GRANTING PETITION
Filed: December 10, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 7200-US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 8, 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 (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Restriction Requirement of September 27, 2005, 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 2825.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KELLY K. KORDZIK, WINSTEAD, SECHREST & MINICK, P.C.
P. O. Box 50784
1201 Maine Street
Dallas, TX 75250-0784

In re Application of:	:	
Hui, et al	:	NOTICE OF WITHDRAWAL
Application No. 10/316,569	:	FROM ISSUE
Filed: December 10, 2002	:	UNDER 37 CFR 1.313
Attorney Docket No. G0730/2242P	:	

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

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed May 13, 2004, are hereby vacated.

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

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

Telephone inquires should be directed to David Nelms at (571) 272-1787.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

September 9, 2004

KELLY K. KORDZIK, WINSTEAD, SECHREST & MINICK, P.C.
P.O. BOX 50784
Dallas, TX 75201

In Re Application of		
HUI, ET AL.	:	NOTICE OF WITHDRAWAL
Application No. 10/316,569	:	FROM ISSUE UNDER
Filed: December 10, 2002	:	37 CFR 1.313
Title: METHOD AND SYSTEM FOR REDUCING CONTACT DEFECTS USING NON CONVENTIONAL CONTACT FORMATION METHOD FOR SEMINCONDUCTOR CELLS		

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

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee due and the Notice of Allowability mailed May 13, 2004, are herby vacated.

The application is being withdrawn to permit reopening of prosecution. The examiner will communicate the reasons to you.

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, the 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 David Nelms at (571) 272-1787.

The application is being forwarded to the examiner for prompt appropriate action.

James L. Dwyer
Director, Technology Center 2800
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Hugh H. Matsubayashi
Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

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OFFICE OF PETITIONS

In re Application of :
Williams, et al. :
Application No. 10/316,573 :
Filed: December 10, 2002 :
Attorney Docket No. 10/316,573

ON PETITION

This is a decision on the petition under 37 CFR 1.182 to change the name of the second named joint inventor cited on this application in USPTO records.

The petition is granted.

The name of the second named joint inventor for the above-cited application is changed to "Tarlochan S. Jhutty."

A corrected filing receipt is enclosed.

The application file is being directed to Technology Center 1700, GAU 1743 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

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/316,573	12/10/2002	1743	1168	514542000110	21	5

CONFIRMATION NO. 5876

CORRECTED FILING RECEIPT

OC000000023109597

Hugh H. Matsubayashi
Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

Date Mailed: 03/26/2007

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)

Roger O. Williams, Paradise Valley, AZ;
Tarlochan S. Jhutty, Santa Clara, CA;
N. Nicolas Mansour, Hillsborough, CA;
Lawrence Lee JR., Sunnyvale, CA;
Michael J. Forbush, Hollister, CA;

Power of Attorney: The patent practitioners associated with Customer Number **25226**.

Domestic Priority data as claimed by applicant

This application is a DIV of 09/735,709 12/12/2000 PAT 6,596,239

Foreign Applications

If Required, Foreign Filing License Granted: 02/25/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/316,573

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Acoustically mediated fluid transfer methods and uses thereof

Preliminary Class

436

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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DLA PIPER RUDNICK GRAY CARY US
2000 UNIVERSITY AVENUE
E. PALO ALTO, CA 94303-2248

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OFFICE OF PETITIONS

In re Application of	:	
Robert F. Friedman et al	:	DECISION ON PETITION
Application No. 10/316,591	:	TO MAKE SPECIAL UNDER
Filed: December 10, 2002	:	37 CFR 1.102(c)(1)
Attorney Docket No. 2102462-991130	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 12, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of the birth certificate of one of the named inventors indicated that he is over 65 pears of age. Accordingly, the above-identified application has been accorded "special" status.

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

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 2666 for action on the merits commensurate with this decision.

Dennis Patton for
Amelia Au
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

RAtnerPrestia
P. O. Box 980
Valley Forge, PA 19482-0980

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OFFICE OF PETITIONS

In re Application of :
Chris Cho-Pin Li, et al. :
Application No. 10/316,593 : DECISION GRANTING PETITION
Filed: December 11, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. ITDE-AEC100US :

This is a decision on the petition, filed May 5, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on December 11, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of August 26, 2004 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

This application is being forwarded to Technology Center Art Unit 2661 for examination in due course.

Marianne E. Morgan

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/2/05

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 6,696,476

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Certificates of Correction Branch

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **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

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Off

PTOL-306 (REV. 7/03)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:040208

DATE : April 2, 2008

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 6,696,476

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:

None of the references listed on pages 1-5 of the C of C are approved. The Information Disclosure Statement filed April 11, 2003 will not be considered although the IDS was timely filed during the prosecution of application 10/316,600. Applicant had six months from allowance to request that the references be considered and waited over a year after the application was patented before requesting a certificate of correction. If Applicant wants the references considered, Applicant will have to file a reissue application.

Joseph K. McKane
Supervisory Patent Examiner
Technology Center 1600, Art Unit 1626

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

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

COPY MAILED

MAR 04 2004

OFFICE OF PETITIONS

In re Application of :
David K. Kiser et al :
Application No. 10/316,609 : NOTICE
Filed: December 10, 2002 :
Attorney Docket No. 5224P010 :

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.

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 and change in correspondence address documentation must be submitted. 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.

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 Office of Initial Patent Examination.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

#5

JUN 15 2004

NYDEGGER & ASSOCIATES
348 OLIVE STREET
SAN DIEGO, CA 92103

In re Application of	:	
Hooman A. Asbaghi	:	
Serial No.: 10/316,610	:	DECISION ON PETITION
Filed: December 10, 2002	:	
For: Position Guide For A Needle Guard	:	

This is in response to applicants' petition filed December 10, 2002 to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the merits as it relates HIV/AIDS.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, X. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, P.O. Box 1450 Alexandria, VA 22313-1450 or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director,
Technology Center 3700/2900

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOHN ROCK
ARIZANT HEALTHCARE INC.
10393 WEST 70TH STREET
EDEN PRAIRIE MN 55344

COPY MAILED

JUN 21 2006

OFFICE OF PETITIONS

In re Application of :
Donald E. Stapf :
Application No. 10/316,611 :
Filed: December 10, 2002 :
Attorney Docket No. AUGB07000004 :

ON PETITION

This is a decision on the petition filed April 11, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned March 15, 2006 for failure to timely pay the issue fee on or before March 6, 2006. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The issue fee, publication fee and petition fee have been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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

Patrick G. Burns, Esq.
GREER, BURNS, & CRAINS, LTD.
Suite 2500
300 South Wacker Dr.
Chicago, IL 60606

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APR 0 7 2003

OFFICE OF PETITIONS

In re Application of
Mukoyama
Application No. 10/316,620
Filed: December 11, 2002
Attorney Docket No. 1115.67143

ON PETITION

This is a decision on the petition filed March 24, 2003, to accord the above-identified application a filing date of December 11, 2002, instead of December 10, 2002.

The petition is **granted**.

37 CFR 1.10(c) states,

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

All of the above requirements have been met. Therefore, the application will be accorded a filing date of December 11, 2002.

A petition under 1.10 does not require a petition fee. Therefore, the $130.00 submitted with the petition is unnecessary and will be refunded.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of December 11, 2002.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 3

MAILED

MAY 06 2003

Technology Center 2600

FOLEY & LARDNER
P.O. BOX 80278
SAN DIEGO CA 92138-0278

In re Application of :
Gillies et al. :
Application No. 10/316,621 :
Filed: December 10, 2002 :
For: MULTI-CHANNEL WIRELESS :
BROADCAST PROTOCOL FOR A SELF- :
ORGANIZING NETWORK

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on April 9, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

All attorneys of record are granted the request for withdraw of attorney/agent. This includes the attorneys/agents listed in Customer Number 30,542, and in the Power of Attorney. 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: Graviton, Inc.
11025 North Torrey Pines Road #200
La Jolla, CA 92037-1030

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CATALYST LAW GROUP, APC
4330 LA JOLLA VILLAGE DRIVE
SUITE 220
SAN DIEGO, CA 92122

COPY MAILED

MAY 0 9 2005

OFFICE OF PETITIONS

In re Application of	:
Donald W. Gillies et al	:
Application No. 10/316,621	: DECISION GRANTING PETITION
Filed: December 10, 2002	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 021831-1202	:

This is a decision on the petition, filed March 18, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on December 9, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m);

and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found in compliance with 37 CFR 1.137(b). However, while the statement of unintentional delay does not comply with the rule, the statement presented will be construed as meaning that "the entire delay in filing the required reply [notification of foreign filing under 35 U.S.C. § 122(b)(2)(B)(iii)] until the filing of a grantable petition was unintentional." Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of August 18, 2005 accompanies this decision on petition.

The fee for a petition to revive under the unintentional standard of 37 CFR 1.137(b) for small entity is $750.00. With the present petition, petitioner has submitted $665.00. Therefore, an additional payment of $85.00 ($750 - $665) is being charged to petitioner's deposit account, as authorized.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3220.

This matter is being referred to Technology Center Art Unit 2662 for examination in due course.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Tarek N. Fahmi
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

MAILED

FEB 19 2005

Technology Center 2100

In re Application of:	)	
Jay Monahan	)	
Application No. 10/316,628	)	
Filed: December 10, 2002	)	**DECISION ON REQUEST FOR**
For: METHOD AND SYSTEM FOR	)	**WITHDRAWAL AS ATTORNEY**
COMMUNICATING SELECTED SEARCH	)	
RESULTS BETWEEN FIRST AND	)	
SECOND USERS OVER A NETWORK		

This is a decision on the Request To Withdraw from Representation filed November 15, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. **37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent**.

There is no indication that Applicant has been notified of the request for withdrawal.

Accordingly, the request is **DENIED**.

All future communications from the United States Patent and Trademark Office (Office) will continue to be directed to the above-listed address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

Michelle R. Eason

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FEB 27 2007

OFFICE OF PETITIONS

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH/EBAY
P.O. BOX 2938
MINNEAPOLIS, MN 55402

In re Application of
Jay Monahan, et al.
Application No. 10/316,628
Filed: December 10, 2002
Attorney Docket No. 2043.024US2

ON PETITION

This is a decision in response to the petition, filed August 16, 2006, 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 non-final Office action mailed, December 6, 2005. A Notice of Abandonment was mailed on August 7, 2006. In response, on August 16, 2006, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500.00; and (3) the requisite statement of unintentional delay.

The application is being referred to Technology Center AU 2165 for consideration of the amendment filed August 16, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

OIPE IAP57
JUN 15 2009
PATENT & TRADEMARK OFFICE

10/316628

Copy

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Jay Monahan et al.
Patent No.: 7,509,323
Issue Date: March 24, 2009

Examiner: Mizrahi, Diane
Group Art Unit: 2165
Docket No: 2043.024US2

Title: METHOD AND SYSTEM FOR COMMUNICATING SELECTED SEARCH RESULTS BETWEEN FIRST AND SECOND USERS OVER A NETWORK

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
ATTN: CERTIFICATE OF CORRECTION BRANCH

We are transmitting herewith the attached:

X Authorization to charge Deposit Account No. 19-0743 in the amount of $100.00 to cover the Certificate of Correction fee.
X Request for Certificate of Correction.(1 pg.)
X Certificate of Correction Form - PTO-1050 (1 pg.)
X A return postcard.

Please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
Customer No: 49845

By: /
Name: Andre L. Marais
Reg. No. 48,095
MRV:CMG:raq

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies 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 of Patents and Trademarks, P.O. Box 1450, Alexandria VA 22313-1450, on this 11 day of June 2009.

Kevin Austad
Name

Signature

Certificate
JUN 17 2009
of Correction

OIPE IAP57
JUN 1 5 2009
PATENT & TRADEMARK OFFICE

Patent 7,509,323 **PATENT**

IN UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.:	7,509,323	Docket No:	2043.024US2
Issue Date:	March 24, 2009	Patentee:	Jay Monahan et al.
Customer No.:	49845	Confirmation No.:	5871

Title METHOD AND SYSTEM FOR COMMUNICATING SELECTED SEARCH RESULTS BETWEEN FIRST AND SECOND USERS OVER A NETWORK

REQUEST FOR CERTIFICATE OF CORRECTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
ATTN: CERTIFICATE OF CORRECTION BRANCH

It is requested that a Certificate of Correction be issued correcting printing errors appearing in the above-identified United States patent. A copy of the text of the Certificate in the suggested form is enclosed.

Pursuant to 1.20(a), please charge Deposit Account No. 19-0743 in the amount of $100.00.

Issuance of the Certificate of Correction would neither expand nor contract the scope of the claims as properly allowed, and re-examination is not required.

The Examiner is authorized to charge any additional fees or credit overpayment to Deposit Account No.19-0743.

Respectfully Submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A
P.O. Box 2938
Minneapolis, MN 55402
(612) 373-6900

Date: 6/11/09

By: Andre L. Marais
Reg. No: 48,095
MRV:raq

06/16/2009 MGEBREM1 00000042 190743 7509323
01 FC:1811 100.00 OP

CERTIFICATE UNDER 37 CFR § 1.8: The undersigned hereby certifies 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 this 11 day of June 2009

Kevin Austad
Name

Signature

PTO/SB/44 (02-01)
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-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,509,323 Page (1) of 1

DATED : March 24, 2009

INVENTOR(S) : Monahan et al.

It is certified that errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On Sheet 4 of 15, in Fig. 4(Below Reference Numeral 110), line 5, delete "SUBSSET" and insert - - SUBSET - -, therefor.

In column 2, line 18, delete "markup," and insert - - markup - -, therefor.

In column 13, line 60, in Claim 12, before "machine," delete "a".(Second Occurrence)

In column 13, line 65, in Claim 12, before "selection" insert - - of - -.

In column 14, line 30, in Claim 13, after "plurality" insert - - of - -.

OK TO ENTER: /N.C./

Approved: /Nick Corsaro/

MAILING ADDRESS OF SENDER:

PATENT NO. 7,509,323

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
Minneapolis, MN 55402

No. of additional copies

Atty Docket No: 2043.024US2

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025

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MAR 0 3 2003

OFFICE OF PETITIONS

In re Application of :
David K. Kiser et al :
Application No. 10/316,631 : NOTICE
Filed: December 10, 2002 :
Attorney Docket No. 5224.P009 :

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 Office of Initial Patent Examination.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/316,641	12/11/2002	Michael S. Malamas	AM100665	5416

35139 7590 05/14/2007
Pepper Hamilton LLP
500 Grant Street
One Mellon Bank Center, 50th Floor
Pittsburgh, PA 15219-2502

EXAMINER
SAEED, KAMAL A

ART UNIT	PAPER NUMBER
1626	

MAIL DATE	DELIVERY MODE
05/14/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10/316,641	12/11/2002	Michael Malamas	AMI 00665

EXAMINER
SAEED

ART UNIT	PAPER
1626	20070430

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The Petition to request for correction of inventorship, filed on June 21, 2006 in an issued U.S. Patent No. 6,960,607 have been enterd in the file. Attached is a communication regarding the petition.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kamal A Saeed whose telephone number is (571) 272-0705. The examiner can normally be reached on M-T 7:00 AM- 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Joseph K. McKane, can be reached at (571) 272-0699.

Communication via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signiture, may be used by applicant and should be addressed to [joseph.mckane@uspto.gov]. All Internet e-mail communications will be made of record in the application file. PTO employees will not communicate with applicant via Internet e-mail where sensitive data will be exchanged or where there exists a possibility that sensitive data could be identified unless there is of record an express waiver of the confidentiality requirements under 35 U.S.C. 122 by the applicant. See the Interim Internet Usage Policy published by the Patent and Trademark Office Official Gazette on February 25, 1997 at 1195 OG 89.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or public PAIR only. For more information about the pair system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-91

KAMAL A. SAEED, PH.D.
PRIMARY EXAMINER

Kamal Saeed

Kamal A Saeed, Ph.D.
Primary Examiner
Art Unit: 1626

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

DATE: April 18, 2007
TO: Certificates of Correction Branch
FROM: Joseph McKane
SPE, Art Unit 1626
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6,960,607 as specified on the attached Certificate.

Joseph K. McKane

Joseph McKane, SPE
Art Unit 1626

UNITED STATES 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. MALAMAS ET AL.	:	
Issue Date: November 1, 2005	:	**DECISION GRANTING**
Appl No.: 10/316,641	:	**PETITION**
Filed: December 11, 2002	:	*37 CFR 1.324*
For: 37 CFR 1.324	:	
	:	
	:	
	:	

This is a decision on the petition filed June 21, 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.

Joseph K McKane

Joseph McKane
Supervisory Patent Examiner
Art Unit 1626
Technology Center 1600

Pepper Hamilton LLP
500 Grant Street
One Mellon Bank Center, 50th Floor
Pittsburgh, PA 15219-2502

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,960,607
Patented: November 1, 2005

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is: **Michael S. Malamas and Iwan Gunawan.**

Joseph K. McKane

Joseph McKane
Supervisory Patent Examiner
Art Unit 1626

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 3

GREER, BURNS & CRAIN, LTD.
300 SOUTH WACKER DRIVE
SUITE 2500
CHICAGO, IL 60606

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APR 0 9 2003

OFFICE OF PETITIONS

In re Application of
Sugimoto et al.
Application No. 10/316,643
Filed: December 11, 2002
Attorney Docket No. 3531.67167

ON PETITION

This decision concerns the March 24, 2003 "Petition to Accord a Filing Date" which is being properly treated as a petition under 37 CFR 1.10(c).

The petition is **GRANTED**.

Petitioners request a filing date of December 11, 2002 rather than the presently accorded filing date of December 10, 2002, on the basis that the application was deposited on December 11, 2002 in the U.S. Postal Service (USPS) "Express Mail Post Office to Addressee" service pursuant to the requirements of 37 CFR 1.10.[1] The petition is accompanied by a copy of the "Express Mail" mailing label bearing the number "EV 032728988US." The same number also appears on the application transmittal which itemizes the application papers being mailed on that date.[2] The petition is thus granted.

No petition fee is owed. The $130 payment enclosed with the petition has been credited to Deposit Account No. 07-2069 as authorized in the December 11, 2002 application transmittal.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 11, 2002, and for issuance of a corrected filing receipt reflecting that filing date. Thereafter, 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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[1] 37 CFR 1.6(a) (Correspondence received in the USPTO is stamped with the date of receipt except . . . (2) Correspondence filed in accordance with §1.10 will be stamped with the date of deposit as "Express Mail" with the USPS).

[2] MPEP section 513 (Aug. 2001) (When a correspondence mailed by USPS "Express Mail" service includes several papers directed to the same application, it may be submitted with a transmittal which itemizes the papers. Merely placing the "Express Mail" mailing label number in one prominent location on such a transmittal is sufficient.).

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 4/9/03 | 2 Serial/Patent # 10/316,643

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
	Petition	2	3/24/03	$ 130
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 130

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 0 7 -- 2 0 6 9

10 REASON:

	Overpayment
✓	Duplicate Payment
	No Fee Due (Explanation):

✓ for Rule 10 petitions

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: R. TANG TITLE: Petitions Mgr

SIGNATURE: R. Tang PHONE: 703 308 6703

OFFICE: Petition

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Alice Kile DATE: 4/9/03

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 f Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO, IL 60604

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MAR 2 0 2008

OFFICE OF PETITIONS

In re Application of :
Daigo Aoki :
Application No. 10/316,652 : ON PETITION
Filed: December 11, 2002 :
Attorney Docket No. CU-6093 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 30, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 15, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 16, 2004.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1762 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WALL MARJAMA & BILINSKI
101 SOUTH SALINA STREET
SUITE 400
SYRACUSE NY 13202

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MAR 17 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Gabriel Silva	:	
Application No. 10/316,664	:	
Filed: December 11, 2002	:	
Attorney Docket No. 277-030	:	

This is a decision on the petition, filed March 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 September 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) 272-3208.

The examiner of Technology Center AU 3754 will consider the request for continued examination under 37 CFR 1.114 submitted on February 3, 2005.

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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060725

DATE : July 25, 2006

TO SPE OF : ART UNIT 3753

SUBJECT : Request for Certificate of Correction on Patent No.: 6,974,115

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:

Eric Keasel

SPE: Eric Keasel **Art Unit** 3753

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE, 7TH FLOOR
SAN DIEGO, CA 92122

In re Application of
EMERY, Jefferson C. et al.
Application No. 10/316,694
Filed: December 11, 2002
Attorney Docket No. **P1940R1**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 23, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Leslie Overman on behalf of all attorneys of record who are associated with customer No. 25213. All attorneys/agents associated with the Customer Number 25213 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **JEFFERSON C. EMERY**
1999 BEACH PARK BLVD., APT. #24
FOSTER CITY CA 94404

cc: **GOODWIN PROCTER LLP**
ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK, CA 94025-1105

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Goodwin Procter LLP.
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park CA 94025-1105

MAILED

APR 20 2010

OFFICE OF PETITIONS

In re Patent No. 7,452,539	:
Emery et al.	: DECISION UPON REMAND AND
Issue Date: November 18, 2008	: RECONSIDERATION OF
Application No. 10/316,694	: PATENT TERM ADJUSTMENT
Filed: December 11, 2002	: AND NOTICE OF INTENT
Attorney Docket No. GNE-0193	: TO ISSUE CERTIFICATE OF
Title: Stabilizing Polypeptides	: CORRECTION
Which have been exposed to urea	:

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 eleven hundred and sixty-two (1162) 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 eleven hundred sixty-two (1162) 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 : 7,452,539 B2

DATED : **November 18, 2008** **DRAFT**

INVENTOR(S) : Emery 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 574 days

Delete the phrase "by 574 days" and insert – by 1162 days--

Day : Monday
Date: 4/19/2010

PALM INTRANET

Time: 14:34:57

PTA Calculations for Application: 10/316694			
Application Filing Date:	12/11/2002	PTO Delay (PTO):	666
Issue Date of Patent:	11/18/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	92
Post-Issue Petitions:	0	Total PTA (days):	1162
PTO Delay Adjustment:	588		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
86	04/19/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		10	
85	04/19/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	598		
77.5	10/29/2008	PTA 36 MONTHS			
77	11/18/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
76	10/14/2008	EXPORT TO FINAL DATA CAPTURE			
75	10/13/2008	DISPATCH TO FDC			
74	10/10/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
73	10/10/2008	CORRESPONDENCE ADDRESS CHANGE			
72	10/08/2008	ISSUE FEE PAYMENT VERIFIED			
71	10/08/2008	ISSUE FEE PAYMENT RECEIVED			
70	09/23/2008	FINISHED INITIAL DATA CAPTURE			
69	08/18/2008	MAIL-PETITION DECISION - GRANTED			
68	08/18/2008	PETITION DECISION - GRANTED			
67	08/18/2008	CORRESPONDENCE ADDRESS CHANGE			
66	07/23/2008	PETITION ENTERED			
64	07/24/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
63	07/18/2008	EXPORT TO INITIAL DATA CAPTURE			
62	07/14/2008	MAIL NOTICE OF ALLOWANCE			
61	06/11/2008	ISSUE REVISION COMPLETED			
60	06/11/2008	DOCUMENT VERIFICATION			
59	07/11/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
58	07/11/2008	NOTICE OF ALLOWABILITY			
56	07/04/2008	DATE FORWARDED TO EXAMINER			
55	06/02/2008	AMENDMENT AFTER FINAL REJECTION			

54	03/05/2008	MAIL FINAL REJECTION (PTOL - 326)			
53	02/29/2008	FINAL REJECTION			
52	12/26/2007	DATE FORWARDED TO EXAMINER			
51	12/04/2007	RESPONSE AFTER NON-FINAL ACTION			
50	11/05/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
49	10/31/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
48	10/31/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
47	09/21/2007	MAIL NON-FINAL REJECTION			
46	09/17/2007	NON-FINAL REJECTION			
45	07/25/2007	DATE FORWARDED TO EXAMINER			
44	07/23/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
43	07/25/2007	DATE FORWARDED TO EXAMINER			
42	07/23/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
41	07/25/2007	DISPOSAL FOR A RCE / CPA / R129			
40	07/23/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
39	06/26/2007	MAIL ADVISORY ACTION (PTOL - 303)			
38	06/22/2007	ADVISORY ACTION (PTOL-303)			
37	06/19/2007	DATE FORWARDED TO EXAMINER			
36	06/15/2007	AMENDMENT AFTER FINAL REJECTION			
35	04/23/2007	MAIL FINAL REJECTION (PTOL - 326)			
34	04/19/2007	FINAL REJECTION			
33	02/21/2007	CORRESPONDENCE ADDRESS CHANGE			
32	02/21/2007	DATE FORWARDED TO EXAMINER			
31	02/08/2007	RESPONSE AFTER NON-FINAL ACTION			
30	11/29/2006	MAIL NON-FINAL REJECTION			
29	11/27/2006	NON-FINAL REJECTION			
28	11/02/2006	DATE FORWARDED TO EXAMINER			
27	10/30/2006	AMENDMENT AFTER FINAL REJECTION			
26	08/17/2006	MAIL FINAL REJECTION (PTOL - 326)			
25	08/10/2006	FINAL REJECTION			
24	06/08/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
23.7	06/08/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	21

23	06/08/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	06/15/2006	DATE FORWARDED TO EXAMINER			
21	06/08/2006	RESPONSE AFTER NON-FINAL ACTION		92	19
20	06/08/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
19	12/08/2005	MAIL NON-FINAL REJECTION	666		-1
18	12/01/2005	NON-FINAL REJECTION			
17	09/14/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
16	03/21/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
15	11/09/2004	MISCELLANEOUS INCOMING LETTER			
14	09/14/2004	REFERENCE CAPTURE ON IDS			
13.7	09/14/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	09/14/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	05/10/2004	MISCELLANEOUS INCOMING LETTER			
11	07/09/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10.7	03/21/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	03/21/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	03/14/2003	CASE DOCKETED TO EXAMINER IN GAU			
8	02/28/2003	APPLICATION DISPATCHED FROM OIPE			
7	02/27/2003	APPLICATION IS NOW COMPLETE			
6	02/19/2003	CLEARED BY L&R (LARS)			
5	01/27/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
4	01/21/2003	ERROR(S) IN CRF CORRECTED BY STIC			
3	12/17/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	12/11/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	12/11/2002	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Orrin M. Haugen, Esq.
HAUGEN LAW FIRM PLLP
1130 TCF Tower
121 South Eighth Street
Minneapolis, MN 55402

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MAR 2 8 2007

OFFICE OF PETITIONS

In re Application of

Miksic, et al.

Application No. 10/316,697

Filed: December 10, 2002

Attorney Docket No. 2002-1613.CP

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed January 15, 2007.

The petition is **granted**.

This application was held abandoned December 12, 2006, after no reply was received to the Notice of Allowance and Issue Fee Due mailed September 11, 2006. The notice set forth a 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 December 12, 2006. A Notice of Abandonment was mailed on January 5, 2007. The instant petition was filed on January 15, 2007. Petitioner maintains that the Notice of Allowance and Issue Fee Due was never received and provides a copy of the relevant docketing calendar as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being directed to Technology Center 1700, GAU 1774 for further processing that may include remailing the Notice of Allowance and Issue Fee Due and resetting of the period for reply.

Questions 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
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ALEXANDRIA, VA 22313-1450
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MAIL

NOV - 3 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 4

BAKER & BOTTS
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

In re Application of: CESAR CASSIOLATO Application No.: 10/316,720 Filed: December 11, 2002 For: **LOGIC ARRANGEMENT, SYSTEM AND METHOD FOR AUTOMATIC GENERATION AND SIMULATION OF A FIELDBUS NETWORK LAYOUT**	**DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)**

This is a decision on the petition, filed December 11, 2002 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status.
>
> (C) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed **most closely related** to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a **detailed discussion** of the references, which discussion points out, with the **particularity** required by 37 CFR 1.111(b) and (c), **how** the claimed subject matter is patentable over the references.
>
> In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Petitioner's submission is deficient in that it does not comply with items (D), and (E) above:

(1) The references which can be submitted are only those deemed **most closely related** to the claimed subject matter. Petitioner is required to make of record that the submitted references be "deemed **most closely related** to the subject matter encompassed by the claims."

(2) Petitioner's submission does not provide a **detailed** discussion of the references, which points out, with the **particularity** required by 37 CFR 1.111(b) and (c), **how** the claimed subject matter is patentable over the references. Petitioner's submission discusses the references generally, not in detail. Moreover, there are five independent claims, but Petitioner's submission does not even discuss one.

Accordingly, the Petition is **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

Any request for reconsideration must be filed within TWO MONTHS of the mailing date of this decision.

Bot LeDynh
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 305-0651

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Gary Abelev
Baker Botts L.L.P.
30 Rockefeller Plaza
44th Floor
New York, NY 10112

In re Application of:
Cesar CASSIOLATO
Application No. 10/316,720
Filed: December 11, 2002
For: LOGIC ARRANGEMENT, SYSTEM AND METHOD FOR AUTOMATIC GENERATION AND SIMULATION OF A FIELDBUS NETWORK LAYOUT

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition, filed 22 December 2003, requesting the grant of special status based on M.P.E.P. §708.02, Section VIII.

M.P.E.P. §708.02, Section VIII, which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d), states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR §1.17(i);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR §1.111(b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission meets all the criteria set out above, accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in M.P.E.P. §708.02, Section VIII.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (703) 305-9750.

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
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 10

FISH & RICHARDSON PC
1425 K STREET NW, SUITE 1100
WASHINGTON, DC 20005

COPY MAILED

DEC 23 2003

OFFICE OF PETITIONS

In re Application of	:
David H. Fine et al	:
Application No. 10/316,746	: DECISION GRANTING PETITION
Filed: December 11, 2002	: UNDER 37 CFR 313(c)(2)
Attorney Docket No. 10897-014001	:

This is a decision on the petition, filed December 18, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 15, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2856 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

COPY MAILED
OCT 27 2006
OFFICE OF PETITIONS

In re Application of	:	
Samantha J. Edirisooriya, et. al.	:	
Application No. 10/316,785	:	ON PETITION
Filed: December 10, 2002	:	
Attorney Docket No. 42P14267	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on July 18, 2006, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed January 17, 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 $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2186, for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CAVEN & AGHEVLI
c/o INTELLEVATE, LLC
P.O. BOX 52050
MINNEAPOLIS, MN 55402

COPY MAILED

NOV 06 2008

OFFICE OF PETITIONS

In re Application of	:	
Samantha J. Edirisooriya, et. al.	:	
Application No. 10/316,785	:	ON PETITION
Filed: December 10, 2002	:	
Attorney Docket No. P14267	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on June 6, 2008, to revive the above-identified application.

The application became abandoned for failure to respond to the Notice of Allowance and Fee(s) Due mailed December 11, 2007. A Notice of Abandonment was mailed on April 4, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,440 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Revocation and Power of Attorney/Certificate under 37 CFR § 3.73(b) has been accepted and made of record.

This application file is being referred to the Office of Data Management for further processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CONLEY ROSE PC
P O BOX 3267
HOUSTON, TX 77253-3267

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FEB 0 8 2007

OFFICE OF PETITIONS

In re Application of	:
Keerti S. Rathore et al	:
Application No. 10/316,786	: DECISION GRANTING PETITION
Filed: December 11, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 019413-00201	:

This is a decision on the petition, filed February 6, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 25, 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 1638 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\Feb10\316786.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). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025

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FEB 28 2003

OFFICE OF PETITIONS

In re Application of	:	
David K. Kiser et al	:	
Application No. 10/316,789	:	NOTICE
Filed: December 10, 2002	:	
Attorney Docket No. 5224P012	:	

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 Office of Initial Patent Examination.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 6

MICHAEL A. STEINBERG, PHD.
IVAX CORPORATION
4400 BISCAYNE BOULEVARD
MIAMI FL 33137

COPY MAILED

MAY 2 3 2005

OFFICE OF PETITIONS

In re Application of
Jegorov, et al.
Application No. 10/316,822
Filed: December 11, 2002
Attorney Docket No. GAL0011-USA

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 21, 2005, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Application Office, mailed March 4, 2003, which set a two month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a), this application became abandoned on May 5, 2003. A Notice of Abandonment was mailed on February 9, 2004.

Applicants have submitted a proper reply in the form of an executed declaration and late declaration surcharge, an acceptable statement of the unintentional nature of the delay in responding to the March 4, 2003 Notice, and the petition fee.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The file is being returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091110

DATE : October 26, 2009

TO SPE OF : ART UNIT 2823

SUBJECT : Request for Certificate of Correction on Patent No.: 6,780,764

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 changes requested by the applicant should be entered. The amendments sought in the 1/20/04 claim set were not entered but the allowance did consider and was based upon the 1/20/04 claim amendments. The request was sent to the SPE by RoChaun Johnson.

/MATTHEW SMITH/
Supervisory Patent Examiner.Art Unit 2823

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

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MAR 0 8 2006
OFFICE OF PETITIONS

In re Application of
Heikki NORTA, *et al.*
Application No. 10/316,876
Filed: December 12, 2002
Attorney Docket No. **367.42297X00**

ON PETITION

This is a decision on petition under 37 CFR 1.137(b), filed on January 4, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed on June 28, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned, by operation of law, on September 29, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) a reply in the form of the argument and amendment under 37 CFR 1.111; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of June 28, 2005 is accepted as having been unintentionally delayed.

The review of the record indicates that petitioner has submitted the extension of time fee of $1020 under 37 CFR 1.136(a). Since the extension of time is not required, the fee will be refunded to petitioner by crediting petitioner's deposit account No.16-0605.

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 2688 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

Cc: **CUSTOMER No. 00826**
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

OIPE JC81
MAY 1 1 2004
PATENT & TRADEMARK OFFICE

DOCKET NO: 231572US2S

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF	:
KEIJI HOSOTANI	: EXAMINER: T. K. LE
SERIAL NO: 10/316,911	: DATE ALLOWED: APRIL 20, 2004
FILED: DECEMBER 12, 2002	: GROUP ART UNIT: 2824
FOR: MAGNETIC MEMORY DEVICE AND MANUFACTURING METHOD THEREOF	:

1/19/05
Petition is moot.
JGD SPRETC 2800

PETITION FOR CONSIDERATION UNDER 37 CFR §1.181(a)(3)

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

This is a Petition pursuant to 37 CFR §1.181(a)(3) requesting that the Examiner be instructed by the Commissioner or his representative to notify Applicant of proper consideration of the Information Disclosure Statement (IDS) that was filed on December 12, 2002.

STATEMENT OF FACTS

On December 12, 2002, Applicant filed the above-noted IDS under 37 CFR §§1.97 and 1.98, which filing is clearly documented by the attached copy of the associated date-stamped Mail Room receipt and copies of the IDS papers including the Form PTO 1449 and cited reference(s)(2). The PTO has not responded to this IDS filing by supplying Applicant with a copy of the Form PTO 1449 filed on December 12, 2002, that has been properly initialed by the Examiner.

POINT FOR REVIEW

The point for review is why Applicant have not been provided a copy of the above-noted Form PTO 1449 filed on December 12, 2002, properly initialed by the Examiner in compliance with the rules.

ACTION REQUESTED

In light of the above, it is respectfully requested that the Examiner be directed to provide Applicant a copy of the above-noted Form PTO 1449 filed on December 12, 2002, properly initialed by the Examiner in compliance with the rules.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Eckhard H. Kuesters
Attorney of Record
Registration No. 28,870

Paul A. Sacher
Registration No. 43,418

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/03)

I:\ATTY\PAS\23'S\231572US\181 PET.DOC

FACSIMILE TRANSMISSION

Mail Stop: Petitions
To: UNITED STATES PATENT AND TRADEMARK OFFICE

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No. of Pages (including this page): 3

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USPTO: PLEASE ACKNOWLEDGE CLEAR RECEIPT OF ALL PAGES INDICATED ABOVE BY FAXING THIS PAGE BACK TO (202) 543-6406

In re: PATENT APPLICATION of:

Inventor(s):	FRIEDL, Winfried-Hagen et al.	Atty. Dkt.	2560-0369
Appln. No.:	10 / 316,930	Group Art Unit:	3746
Filed:	December 12, 2002	Examiner:	McCoy, K.
Patent No:	6,779,967		
Granted:	August 24, 2004		
Title:	DEVICE FOR AIR MASS FLOW CONTROL	Date:	March 29, 2006

Name of paper being transmitted: PETITION REQUESTING REPLACEMENT OFFICIAL LETTERS PATENT & Change of Address

Message:

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office at the above fax number on the date shown below.

Name: Timothy J. Klima Signature: _____ Date: March 29, 2006

Harbin King & Klima
500 Ninth Street, SE
Washington, DC 20003
(202) 543-6404 Phone
(202) 543-6406 Fax

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: PATENT APPLICATION of:

Inventor(s):	FRIEDL, Winfried-Hagen et al.	Atty. Dkt.	2560-0369
Appln. No.:	10 / 316,930	Group Art Unit:	3746
Filed:	December 12, 2002	Examiner:	McCoy, K.
Patent No:	6,779,967		
Granted:	August 24, 2004		
Title:	DEVICE FOR AIR MASS FLOW CONTROL	Date:	March 29, 2006

PETITION REQUESTING REPLACEMENT OFFICIAL LETTERS PATENT

Mail Stop: Petitions
Hon. Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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MAR 2 9 2006

Sir:

The subject application granted as US Patent 6,779,967 on August 24, 2004. The Official Grant (official bound Letters Patent with gold seal and red ribbon) has never been received. Applicant hereby petitions under 37 CFR 1.182 to have a replacement Official Grant produced and mailed to the undersigned. To ensure that it is mailed to the correct address, a Change of Address is submitted herewith. The petition fee required under 37 CFR 1.17(h) should be deducted from our deposit account 50-3272 under order number 2560-0369.

If anything else is needed to process this request, please contact the undersigned.

Respectfully submitted,

Timothy J. Klima
Reg. No. 34,852

Harbin King & Klima
500 Ninth Street SE
Washington, DC 20003
202-543-6404 Telephone
202-543-6406 Fax

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: PATENT APPLICATION of:

Inventor(s):	FRIEDL, Winfried-Hagen et al.	Atty. Dkt.	2560-0369
Appln. No.:	10 / 316,930	Group Art Unit:	3746
Filed:	December 12, 2002	Examiner:	McCoy, K.
Patent No:	6,779,967		
Granted:	August 24, 2004		
Title:	DEVICE FOR AIR MASS FLOW CONTROL	Date:	March 29, 2006

CHANGE OF ATTORNEY'S ADDRESS IN APPLICATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RECEIVED
CENTRAL FAX CENTER
MAR 2 9 2006

Sir:

Effective immediately, please change the correspondence address to:

Timothy J. Klima
Harbin King & Klima
500 Ninth Street SE
Washington DC 20003
202-543-6404 Voice
202-543-6406 Fax

Respectfully submitted,

Timothy J. Klima
Reg. No. 34,852

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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MICHAEL R FRISCIA
MCCARTER & ENGLISH
FOUR GATEWAY CENTER
100 MULBERRY STREET
NEWARK, NJ 07102

COPY MAILED

FEB 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Ira Marlowe	:	
Application No. 10/316,961	:	DECISION ON PETITION
Filed: December 11, 2002	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 9809/1	:	37 CFR 1.102(d)

This is a decision on the petition under 37 CFR §1.102(d), filed January 17, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **DISMISSED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The instant petition lacks item (C) above. Petitioner states he "has a good knowledge of the pertinent prior art." A review of the official file indicates that IDS submissions were filed on March 8, 2004, March 22, 2004 and September 12, 2005. However, the petition does not indicate whether the IDS

submissions already ~~been~~ filed are deemed most closely related to the subject matter.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 2644 for action in its regular turn.

Denise Pothier
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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MICHAEL R FRISCIA
MCCARTER & ENGLISH
FOUR GATEWAY CENTER
100 MULBERRY STREET
NEWARK, NJ 07102

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APR 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Ira Marlowe	:	
Application No. 10/316,961	:	DECISION ON PETITION
Filed: December 11, 2002	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 9809/1	:	37 CFR 1.102(d)
	:	

This is a decision on the renewed petition under 37 CFR § 1.102(d), filed March 17, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR § 1.102(d) and MPEP § 708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the Office alleging:

> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (c) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 2615 for action on the merits commensurate with decision.

Dina Potter for

Amelia Au
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCCARTER & ENGLISH
FOUR GATEWAY CENTER
100 MULBERRY STREET
NEWARK NJ 07102

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OFFICE OF PETITIONS

In Application of	:	
Ira Marlowe	:	
Application No. 10/316,961	:	ON PETITION
Filed: December 11, 2002	:	
Attorney Docket No.9809/1	:	

This is a decision on the petition filed August 19, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct assignee data on the Fee(s) Transmittal form PTOL-85(b) so that the Letter of Patent will issue without an assignee name.

The request is **DISMISSED.**

Petitioner states that the assignee data was cited incorrectly on the Fee(s) Transmittal as "Blitzsafe of America". Accordingly, petitioner requests that the issued patent reflect no assignee on the front page of the Letters of Patent.

A review of the application file history and assignment records reveals that on June 18, 2003, an assignment was recorded from Ira M. Marlowe to Blitzsafe of America. On September 7, 2005, another assignment was recorded from Blitzsafe of America to Ira Marlowe. On August 15, 2008, the issue fee was paid and Form PTOL-85B was filed noting that Blitzsafe of America should be listed as the assignee on the front page of the Letters of Patent. Petitioner now files the instant petition requesting that no assignee appear on the front page of the Letter of Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the Assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

[1] *See* MPEP 1309, subsection II and Official Gazette of June 22, 2004.

Accordingly, the Letters of Patent will issue with Blitzsafe of America as the assignee. After issuance of the Letter of Patent, petitioner may file a renewed request under 37 CFR 3.81(b) and Certificate of Correction requesting that Ira Marlowe be listed as the assignee for the patent.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

The application file is directed to the Office of Data Management for further processing.

K. A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MICHAEL R. FRISCIA
MCCARTER & ENGLISH
FOUR GATEWAY CENTER
100 MULBERRY STREET
NEWARK NJ 07102

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DEC 0 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Ira Marlowe	:	
Application No. 10/316,961	:	DECISION GRANTING PETITION
Filed: December 11, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 9809/1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 26, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 15, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2615 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

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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W. Edward Johansen
11661 San Vicente Boulevard
Los Angeles, CA 90049

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OFFICE OF PETITIONS

In re Application of	:	
Josef Rabinovitz, et al.	:	
Application No. 10/316,980	:	ON PETITION
Filed: December 9, 2002	:	
Attorney Docket No. RABIN#5(CIP)2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 1, 2004, to revive the above-identified application.

The petition is **GRANTED**.

A non-final Office action was mailed to applicant on March 15, 2004, which set a three (3) month shortened statutory period for reply. As no reply was received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on June 16, 2004.

Since the application became abandoned, applicant filed the instant petition and a proposed reply, namely, an amendment and terminal disclaimer to overcome a double patenting rejection. Receipt of the amendment and terminal disclaimer is acknowledged.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 2100.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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MARGER JOHNSON & MCCOLLOM, P.C.
210 SW MORRISON STREET, SUITE 400
PORTLAND, OR 97204

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FEB 2 3 2007

OFFICE OF PETITIONS

In re Application of	:	
Barrie Gilbert	:	
Application No.: 10/316,990	:	ON PETITION
Filed: December 10, 2002	:	
Attorney Docket No.: 1482-135	:	

This is a decision on the petition, filed February 21, 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 5, 2007, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2193 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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APR 2 5 2003

OFFICE OF PETITIONS

CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

In re Application of Spurr, et al. Application No. 10/317,007 Filed: December 11, 2002 Dkt. No.: 60,130-1619/00MRA0201 For: LATCH MECHANISM FOR A VEHICLE	DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed March 24, 2003.

The petition is **GRANTED**.

Petitioner has shown that inventor Mark Li has refused to join in the filing of the above-identified application after having been presented with the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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MARK LI
APARTMENT 3
NEW HAMPTON LOFT
95 BRANSTON STREET
BIRMINGHAM
B15 6BF
GREAT BRITAIN

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APR 2 5 2003

OFFICE OF PETITIONS

In re Application of :
Spurr, et al. :
Application No. 10/317,007 : LETTER
Filed: December 11, 2002 :
Dkt. No.: 60,130-1619/00MRA0201 :
For: LATCH MECHANISM FOR A VEHICLE :

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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HANSRA PATENT SERVICES
4525 GLEN MEADOWS PLACE
BELLINGHAM WA 98226

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OFFICE OF PETITIONS

In re Application of :
Erhard T. SCHREK et al. :
Application No. 10/317,016 :
Filed: December 11, 2002 :
Attorney Docket No. 3123-449 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 26, 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 restriction requirement mailed September 22, 2004, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 23, 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 election and amendment; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement of September 22, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 2651 for appropriate action on the concurrently filed election.

David Bucci
Petitions Examiner
Office of Petitions

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

MORRISS O'BRYANT COMPAGNI, P.C.
136 SOUTH MAIN STREET
SUITE 700
SALT LAKE CITY UT 84101

In re application of
Spencer Lambert
Application No.10/317025
Filed: December 11, 2002
For: BULLET TRAP

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on May 6, 2003, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition A) above.

The attorneys associated with Customer Number 26986 do not correspond with those named in the Power of Attorney, thus creating confusion as to who is withdrawing. The reference to the customer number 26986 does not include attorney Randall B. Bateman who is listed as one of the attorneys of record. To alleviate this problem, it is suggested that the request be resubmitted and that such request specifically state that the signing attorney is signing on behalf of all attorneys of record in this application.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/ekn 9/25/03

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Randall B. Bateman
P. O. Box 1319
Salt Lake City, UT 84110

In re application of
Spencer Lambert, et al.
Application No. 10/317,025
Filed: December 11, 2002
For: BULLET TRAP

Paper No. 9

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on November 21, 2003 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **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 of record is accepted in the above-identified application because the request meets conditions (A) through (C).

The attorneys withdrawn from the application are: Julie K. Morriss, David W. O'Bryant, David S. Romney, Wesley M. Lang, Stephen H. Bean, and Frank W. Compagni.

The attorney still having power in the application is Randall B. Bateman
The correspondence address has been changed to:

Randall B. Bateman
P. O. Box 1319
Salt Lake City, UT 84110

SUMMARY: Request For Withdrawal of Attorney is **APPROVED** .

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/cps: 12/17/03

cc:

MORRISS O'BRYANT COMPAGNI, P.C.
136 SOUTH MAIN STREET
SUITE 700
SALT LAKE CITY, UT 84101

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TECHNOLOGY CENTER 3600

Randall B. Bateman
P.O. Box 1319
Salt Lake City, UT 84110-1319

In re Application of
Spencer Lambert et al.
Application No. 10/317,025
Filed: December 11, 2002
For: BULLET TRAP

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in response to applicant's petition to withdraw the holding of abandonment filed in the United States Patent and Trademark Office (USPTO), on June 21, 2004.

The petition is **DISMISSED**.

A review of the file records reveals that the application was held abandoned for failure to timely file a reply to the Restriction Requirement mailed October 27, 2003 and a Notice to that effect was mailed on June 15, 2004.

The petition filed alleges that a response was mailed to the Office on December 1, 2003, and has provided a post card receipt demonstrating that the reply was received on December 5, 2003.

A review of the record reveals that the original response has been matched with the file. The original response includes a date stamp of December 5, 2003, and a Certificate of Mailing having a date of December 1, 2003. However, since the period for response expired November 28, 2003, this response is untimely. Furthermore, the response did not include the appropriate fee to extend the response period to December 27, 2002. Thus, the application was properly held abandoned.

SUMMARY: The petition to withdraw the holding of abandonment is **DISMISSED**.

Applicant may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

I. Unavoidable Delay

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 37 CFR 1.17(l); and (3) an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the

required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable. This includes a satisfactory showing that the cause of the delay resulting in failure to reply in a timely fashion to the Office action was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II. Unintentional Delay

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 37 CFR 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The petition fee required by law for filing a petition under unavoidable standard is $110. The fee for a petition under the unintentional standard is $1,330. If applicant has, or can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated.

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive. The required items should be promptly submitted under a cover letter entitled "Petition to Revive."

Further correspondence with respect to a petition to revive should be addressed as follows:

By Mail: Deputy Commissioner of Patent Examination Policy
Box 1450
Alexandria, VA 22313-1450

By Fax: (703) 308-6916
Attn: Office of Petitions

By Hand: Crystal Plaza 4, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries should be directed to the Office of Petitions Staff at (703) 305-9282.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/vdb: 8/11/04

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#14

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TECHNOLOGY CENTER 3600

Randall B. Bateman
P.O. Box 1319
Salt Lake City, UT 84110-1319

In re Application of
Spencer Lambert, et al.
Application No. 10/317,025
Filed: December 11, 2002
For: BULLET TRAP

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is a decision on applicants' renewed petition to withdraw the holding of abandonment filed in the United States Patent and Trademark Office (USPTO), on September 2, 2004.

The petition is **DISMISSED**.

A review of the file records reveals that the application was held abandoned for failure to timely file a reply to the Restriction Requirement mailed October 27, 2003 and a Notice to that effect was mailed on June 15, 2004.

In a prior petition, filed June 21, 2004, petitioner indicated that a response was mailed to the Office on December 1, 2003, and a post card receipt demonstrating that the reply was received on December 5, 2003 was provided. A review of the record revealed that the original response had been matched with the file, and the original response included a date stamp of December 5, 2003, and a Certificate of Mailing having a date of December 1, 2003. However, since the period for response expired November 28, 2003, this response was deemed to have not been timely filed. Furthermore, the response did not include the appropriate fee to extend the response period to December 27, 2002. Thus, applicants' petition was dismissed, and the application was held to have been properly abandoned.

Applicants have filed the present renewed petition to withdraw the holding of abandonment. In support thereof, petitioner states, "an authorization to charge a deposite(sic) account was previously given for 'any additional fees' in the Information Disclosure Statement filed April 22, 2003. Therefore, Applicant submits that the case should not have been abandoned."

Applicants' renewed petition, and petitioner's statement are insufficient to grant the petition to withdraw the holding of abandonment. In this regard, the entire application file has been reviewed, and no Information Disclosure Statement, filed April 22, 2003, with an authorization to charge a deposit account has been found.

Thus, the application was properly held abandoned.

Applicant may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

I. Unavoidable Delay

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 37 CFR 1.17(l); and (3) an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the

required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable. This includes a satisfactory showing that the cause of the delay resulting in failure to reply in a timely fashion to the Office action was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II. Unintentional Delay

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 37 CFR 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The petition fee required by law for filing a petition under unavoidable standard is $110. The fee for a petition under the unintentional standard is $1,330. If applicant has, or can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated.

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive. The required items should be promptly submitted under a cover letter entitled "Petition to Revive."

Further correspondence with respect to a petition to revive should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: 2011 South Clark Place
Crystal Plaza Two, Lobby
Room 1B03
Arlington, VA 22202

By FAX: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries should be directed to the Office of Petitions Staff at (703) 305-9282.

FOR

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/rwg: 11/23/04

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Paper No. 16

Randall B. Bateman
P.O. Box 1319
Salt Lake City UT 84110-1319

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OFFICE OF PETITIONS

In re Application of :
Spencer Lambert, et al. :
Application No. 10/317,025 :
Filed: December 11, 2002 :
Attorney Docket No. 2074.ACTI.NP :

ON PETITION

This is a decision on the petition, filed December 8, 2004, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The application became abandoned for failure to timely respond to a Restriction Requirement mailed October 27, 2003, which set an one-month shortened statutory period for reply. The response was filed December 5, 2003, using a Certificate of Mailing dated December 1, 2003. A Notice of Abandonment was mailed on June 15, 2004.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The petition is **GRANTED**.

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 3641 for consideration of the response filed December 5, 2003.

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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RANDALL B BATEMAN
BATEMAN IP LAW GROUP
81 EAST BROADWAY
SUITE 550
PO BOX 1319
SALT LAKE CITY UT 84110

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MAR 20 2006

OFFICE OF PETITIONS

In re Application of	:	
Lambert, et al.	:	
Application No. 10/317,025	:	ON PETITION
Filed: December 11, 2002	:	
Attorney Docket No: 2074.ACTI.NP	:	

This is a decision on the "STATUS INQUIRY RE: REQUEST FOR RECONSIDERATION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT", filed February 8, 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 **DISMISSED**.

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed October 27, 2003. This Office action set a shortened period for reply of one (1) month. Applicants filed a response on December 5, 2003, bearing a Certificate of Mailing dated December 1, 2003. The response did not include an extension of time or an authorization to charge an extension of time. Accordingly, the response was not timely, and the application became abandoned on November 28, 2003. The Office mailed a Notice of Abandonment on June 15, 2004.

Applicants filed a petition to withdraw the holding of abandonment on June 21, 2004. However, the petition was dismissed in a decision mailed on August 17, 2004. Applicants filed a request for reconsideration on September 2, 2004. Prior to a decision on the request for reconsideration, applicants filed a petition to revive under 37 CFR 1.137(b) on December 6, 2004. The request for reconsideration was dismissed on December 8, 2004. Applicants filed a second request for reconsideration on December 13, 2004. The petition to revive under 37 CFR 1.137(b) was granted on March 7, 2005. No decision on the second request for reconsideration was ever mailed.

Petitioner argues that the response filed on December 5, 2003 should be considered timely, because prior to that response he had filed an Information Disclosure Statement (IDS) "giving the Patent and Trademark Office authorization to debit any amount owing to counsel's PTO account." Petitioner's argument has been considered, but is not persuasive.

37 CFR 1.25(b) states that "a general authorization to charge all fees, or only certain fees, set forth in § § 1.16 to 1.18 to a deposit account containing sufficient funds may be filed in an individual application, either for the entire pendency of the application or with a particular paper filed." A review of the application file reveals that the IDS was filed on May 2, 2003. Concerning the deposit account authorization, the IDS read "Please charge any additional fees or credit any overpayment to Deposit Account No. 50-0881". Accordingly, it is concluded that such language does not constitute an authorization to charge fees to the deposit account for the entire pendency of the application. Rather, it was only an authorization to charge fees for that particular paper.

The matter is being returned to Group Art Unit 3641 for examination in due course.

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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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of
FREMMING, NILS P.
Serial No.: **10/317,067**
Filed: December 12, 2002
For: **THREE DIMENSIONAL GEOLOGICAL MODEL CONSTRUCTION**

DECISION ON PETITION

ACCEPTANCE OF COLOR PHOTOGRAPHS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed, June 29, 2005, requesting acceptance of color drawings.

The petition requests that the color drawings identified in figures 3, 4, 5, 6, 7, and 8 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition is **GRANTED**.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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
10/317,092	12/12/2002	Alexa L. Martinez	2057.0040001

CONFIRMATION NO.
5175

STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

Date Mailed: May 20, 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 December 29, 2003, 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 April 1, 2004, in compliance with 35 U.S.C. 122(b), the publication number is US20040062748A1, and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.

The application **has/will be published** as scheduled.

Telephone inquiries should be directed Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Barbara J. Debnam
Office of Patent Publication
Pre-Grant Publication Division

Rev. 10/01

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 27 2005

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

In re Application of	:	
Koichi Okada	:	DECISION ON PETITION
Application No. 10/317,114	:	UNDER 37 CFR §1.181
Filed: December 12, 2002	:	
Attorney Docket No.: Q73407	:	
For: VEHICLE MOUNTED BEARING	:	
ASSEMBLY	:	

This is a decision on applicant's petition under 37 CFR 1.181 filed March 15, 2005 requesting withdrawal of the finality of the Office action mailed March 4, 2005.

The petition is **GRANTED.**

The record reflects that on April 15, 2004 an election of species requirement was mailed requiring an election between the species of Figures 1, 9a, 11, 12, 14a, 15, 16, 17, and 18. On May 11, 2004 applicant filed a response to the election of species requirement electing the species of Figure 1 without traverse. On August 12, 2004 a non-final Office action was mailed withdrawing claims 6, 15, and 18 from further consideration, rejecting claims 1, 2, 7, 12, 14, 16, and 17 under 35 U.S.C. 102, rejecting claims 3, 4, 8, 11, and 13 under 35 U.S.C. 103, and objecting to claims 5, 9, and 10 as being dependent upon a rejected base claim, but allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. On August 25, 2004 applicant filed an Information Disclosure Statement. On December 13, 2004 applicant filed a declaration under 37 CFR 1.131 along with an amendment adding new claims 19-21. On March 4, 2005 a final Office action was mailed rejecting claims 1, 2, 7, 12, 14, 16, 17, and 19-21 under 35 U.S.C. 102, rejecting claims 3, 8, 11, and 13 under 35 U.S.C. 103 and objecting to claims 5, 9, and 10 as being dependent upon a rejected base claim, but allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In the petition filed March 15, 2005 to withdraw the finality of the Office action mailed March 4, 2005, applicant argues that the Information Disclosure Statement filed August

25, 2004 was filed during the period set forth in 37 CFR 1.97(c) with a statement under 37 CFR 1.97(e).

37 CFR 1.181(f) states: The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provide. This two-month period is not extendable.

MPEP 706.07 sets forth that the examiner should never lose sight of the fact that in every case the applicant is entitled to a fair and full hearing, and that a clear issue between applicant and examiner should be developed, if possible, before appeal; and that in making the final rejection, they [the grounds of rejection] must be clearly developed to such an extent that applicant may readily judge the advisability of appeal unless a single previous Office action contains a complete statement supporting the rejection. Furthermore, MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicants' amendment 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).

MPEP 609 sets forth that if information submitted during the period set forth in 37 CFR 1.97(c) with a statement under 37 CFR 1.97(e) is used in a new ground of rejection on unamended claims, the next Office action will not be made final since in this situation it is clear that applicant has submitted the information to the Office promptly after it has become known and the information is being submitted prior to a final determination on patentability by the Office.

With regard to the propriety of the finality of the Office action mailed March 4, 2005, since the amendment of December 13, 2004 did not amend claims 1-3, 7, 8, 11-14, and 16 and the new grounds of rejection of claims 1-3, 7, 8, 11-14, and 16 relied upon a reference contained in an Information Disclosure Statement in which the conditions of 37 CFR 1.97(e)(1) were met, the finality of the Office action is not proper.

The finality of the Office action mailed March 4, 2005, but not the action itself, is hereby vacated. The Office action of March 4, 2005 is now considered to be non-final and the shortened statutory response continues to run THREE (3) MONTHS from the date of mailing of the Office action, i.e., three (3) months from March 4, 2005.

The application will be forwarded to the Head Supervisory Legal Instruments Examiner for removal of the "final" status from the March 4, 2005 action and awaits applicant's response to the Office action.

The petition is **GRANTED.**

Robert J. Oberleitner, Director
Patent Technology Center 3600
Telephone No.: (571) 272-5350

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WASHINGTON DC 20004-1206

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OFFICE OF PETITIONS

In re Application of
David R. Hathaway
Application No. 10/317,126
Filed: December 11, 2002
Attorney Docket No. P05745US1

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed October 14, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/350,395.

The petition is **Granted.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the surcharge set forth in 37 CFR 1.17(t);

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional; and

(3) the reference to the prior-filed provisional application supplied in an application data sheet (ADS)(37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. *See* 35 U.S.C. 119(e) and 37 CFR 1.78(a)(5)(iii). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on December 11, 2002, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/350,395, which was filed on January 22, 2002, for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/350,395 is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

The application is being forwarded to Technology Center AU 1654 for processing the amendment submitted October 14, 2003 and for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/350,395, filed January 22, 2002.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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Paper No. 6

MILLER THOMPSON LLP
20 QUEEN STREET WEST, SUITE 2500
TORONTO, ON M5H 3S1
CANADA

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JUN 2 9 2004
OFFICE OF PETITIONS

In re Application of
Joseph Joey Yves Belanger, et al.
Application No. 10/317,128
Filed: December 12, 2002
Attorney Docket No. 056103-0001

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 17, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed January 28, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned at midnight on March 28, 2003.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), it will be interpreted as the required statement. Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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KEATING & BENNETT LLP
SUITE 312
10400 EATON PLACE
FAIRFAX VA 22030

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Daisuke Nakamura et al :
Application No. 10/317,145 :
Filed: December 12, 2002 :
Attorney Docket No. 36856.978 :

This is a decision on the petition, filed December 8, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 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 (571) 272-3208.

The examiner of Technology Center AU 2834 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of
SORRELLS, et al.
Application No. 10/317,165
Filed: December 12, 002
Attorney Docket No. 1744.0880003

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 June 16, 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 Linda E. Horner. Linda E. Horner has been withdrawn as attorney or agent of record; all other attorneys remain of record. The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

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Paper No. 5

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OFFICE OF PETITIONS

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

In re Application of
Kim et al.
Application No. 10/317,217
Filed: December 12, 2002
Attorney Docket No. 053785-5068

ON PETITION

This decision concerns the May. 14, 2003 petition under 37 CFR 1.47(a).

The petition is **DISMISSED.**

Three inventors are named in this application. The application upon filing did not include an oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on March 14, 2003, giving Applicants an extendable 2-month period to submit, *inter alia*,[1] a properly signed oath/declaration. The instant petition then followed, stating that the non-signing inventor 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 2 inventors ("5/14/03 Declaration").

First of all, if all of the 3 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 inventor 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 the application on behalf of themselves as well as Bae, provided that the petition includes Bae's last known address; and a statement of facts, signed by a person with **firsthand knowledge** of the facts recited therein, establishing that a **diligent effort** had been made to locate 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, alleges 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) Through www.Lexis.com (Person Locator), the Office was able to locate a person with the name "Jong Uk Bae" associated with a US (California) address. The Office did not check the Korean database.

In view of the above, the Office concludes that a reasonably diligent effort had not been made to locate Bae before it was concluded that he could not be found. The petition is thus dismissed. The 5/14/03 Declaration is not accepted.

To prevent abandonment of this application,[5] one of the following must be submitted 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 §1.47(a) petition (no fee) that includes proper statement(s)[8] of **facts** establishing that:

-a **diligent effort** had been made, in vain, to locate Bae;[9] **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).**[10]

---

[4] E.g., a printout of the search results.

[5] See 37 CFR 1.53(f) (If an application which has been accorded a filing date . . . does not include an oath or declaration . . . pursuant to §1.63 . . . , applicant will be notified and given a period of time within which to . . . file an oath or declaration . . . to avoid abandonment).

[6] Unless proper extension(s) of time under 37 CFR 1.136(a) is (are) obtained.

[7] A declaration listing the invention and all of the inventors, but signed only by Bae, may be submitted to supplement the 5/14/03 Declaration.

[8] **Statements based on hearsay will not be considered.**

[9] The steps taken to locate the whereabouts of Bae should be included in the statement of facts, signed by the person with firsthand knowledge of the facts recited therein. MPEP section 409.03(d) INVENTOR CANNOT BE REACHED (Rev. 1, Feb. 2003).

[10] MPEP section 409.03(d) (Rev.1, Feb. 2003) REFUSAL TO JOIN (a refusal . . . to sign . . . when the inventor['s representative] has not been presented with the application papers does not itself suggest that [he] is refusing to join in the application unless it is clear that [he] 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

The renewed §1.47(a) petition should be addressed as follows:

by mail/by hand:	Commissioner for Patents, USPTO Office of Petitions Crystal Plaza Four, Suite CP4-3C23 2201 South Clark Place Arlington, VA 22202
by fax:	(703) 308-6916 Attn: Office of Petitions

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 $90 extra claims fee.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

(Comm'r Pat. 1956) (It is reasonable to require that the inventor['s representative] be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that [he] is apprised of the application to which the oath/declaration is directed.).

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Paper No. 7

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

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OCT 21 2003
OFFICE OF PETITIONS

In re Application of
Kim et al.
Application No. 10/317,217
Filed: December 12, 2002
Attorney Docket No. 053785-5068

ON PETITION

This decision concerns the July 18, 2003 "Renewed Petition for Filing an Application on Behalf of a Nonsigning Inventor under 37 CFR 1.47(a) with Accompanying Declaration in Support Thereof."

The renewed petition is **GRANTED.**

The previous petition under 37 CFR 1.47(a), filed on May 14, 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 May 30, 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 instant renewed §1.47(a) petition 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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UNITED STATES PATENT AND TRADEMARK OFFICE
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Jong-Uk Bae
1422-2002 Mokdung Apt.
Sinjeong6-dong, Yangcheon-gu
Seoul, 158-076
Republic of Korea

COPY MAILED
OCT 2 1 2003
OFFICE OF PETITIONS

In re Application of
Kim et al.
Application No. 10/317,217
Filed: December 12, 2002
Attorney Docket No. 053785-5068

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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United States Patent and Trademark Office
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HUFFMAN LAW GROUP, P.C.
1832 N. CASCADE AVE.
COLORADO SPRINGS, CO 80907-7449

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OFFICE OF PETITIONS

In re Application of :
James R. Lundberg :
Application No. 10/317,240 :
Filed: December 11, 2002 :
Attorney Docket No. CNTR.2011 :

ON PETITION

This is a decision on the petition, filed August 4, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 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 relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 2816 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Approved for use through 11/30/2005. OMB 0651-0035
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/317,248
Filing Date	December 10, 2002
First Named Inventor	Jordan Schlanger
Art Unit	1753
Examiner Name	Edna Wong
Attorney Docket Number	01-709-1

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Approved Jacqueline M. Stone 4/20/06
Jacqueline M. Stone, Director
Technology Center 1700

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
- [x] the attorneys/agents associated with Customer Number 34704

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 sheet

CORRESPONDENCE ADDRESS

1. [ ] The correspondence address is NOT affected by this withdrawal.
2. [x] Change the correspondence address and direct all future correspondence to:

[ ] The address associated with Customer Number:

OR

[x] Firm or Individual Name	Jordan Schlanger				
Address	Jordan Schlanger Co., Inc. 156 5th Ave Penthouse 2				
City	New York	State	NY	Zip	10010
Country					
Telephone	212-620-9025	Email	jordan@jordanschlanger.com		
Signature	[signature]				
Name	William B. Slate	Registration No.	37238		
Date	1/13/06	Telephone No.	203-777-6628		

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.

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Paper No. 5

Pillsbury Winthrop LLP
Intellectual Property Group
725 So. Figueroa Street, Suite 2800
Los Angeles, CA 90017-5406

In re Application of	:	
Alexander Bovyrin	:	
Application No. 10/317,318	:	ON PETITION
Deposited: December 12, 2002	:	
Attorney Docket No.: P 0275054 P14831	:	

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This is a decision on the petition to accord filing date filed February 25, 2003, requesting that the above-identified application be accorded a filing date of December 12, 2002.

Application papers in the above-identified application were deposited on December 12, 2002. However, on January 29, 2003, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings.[1]

In response, 11 sheets of drawings, including figures 1-11 and the present petition were filed on February 25, 2003. The petition contends that the application as filed included figures 1-11 and were described in the original filed specification. In support, the petition is accompanied by a copy of applicant's postcard receipt which acknowledges receipt in the office of "Drawings: # of Sheets 11 formal" on December 12, 2002.

Applicant's postcard receipt is prima facie[2] evidence that drawings were received on December 12, 2002, but no drawings are present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that 11 sheets of drawings, including figures 1-11, were received on December 12, 2002, as shown in counsel's file, and later misplaced in the Office.

The petition is Granted.

---

[1] See 35 U.S.C. 111(a)(4)

[2] A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the office of all items listed thereon. See MPEP 503.

Since the original drawings cannot be located in the Office, the copy of the drawings supplied on February 25, 2003, will be used for processing and examination purposes.

No petition fee is due.

Deposit account 16-1805 is being credited with the $130.00 surcharge for late oath or declaration as a review of the file establishes a declaration in compliance with 37 CFR 1.63 was timely submitted.

The application will then be returned to the Office of Initial Patent Examination for further processing with a **filing date of December 12, 2002**, using the 11 sheets of drawings supplied on February 25, 2003.

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

02 SEP 2004

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Chris Cravey
VINSON & ELKINS LLP
2300 First City Tower
1001 Fannin Street
Houston, TX 77002-6760

In re Application of
PALUCH, William C.
U.S. Application No.: 10/317,319
Filing Date: 12 December 2002
Attorney Docket No.: 25150/20
For: DRILLING FORMATION TESTER, APPARATUS AND METHODS OF TESTING AND MONITORING STATUS OF TESTER

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

This decision is in response to applicants' "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 12 December 2002 to revive international application PCT/US00/30595 which was abandoned under 35 U.S.C. 371(d) and is hereby **GRANTED** as to the present U.S. national application as follows:

International application PCT/US00/30595 became abandoned as to the United States of America for failure to pay the basic national fee by 05 May 2002. The filing of the present continuing application under 35 U.S.C. 111(a) is accepted as an appropriate response under 37 CFR 1.137(b). The $1,280.00 petition to revive fee has been paid. Applicants' statement satisfies the requirement of 37 CFR 1.137(b)(3).

International application PCT/US00/30595 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 10/317,319.

This application is being forwarded to the Office of Initial Patent Examination for further processing under 35 U.S.C. 111(a) with a filing date of 12 December 2002.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

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MORRISVILLE, NC 27560

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OFFICE OF PETITIONS

In re Application of :
Atsushi Abe, et al. :
Application No. 10/317,323 :
Filed: December 12, 2002 :
Attorney Docket No. JP920020033US1 :

ON PETITION

This is a decision on the petition, filed July 11, 2007, to revive the above-identified application under 37 CFR 1.137(b).

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Kelvin M. Vivian appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Vivian desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 13, 2006. A Notice of Abandonment was mailed on July 2, 2007. On July 11, 2007, the present petition was filed.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and the appeal fee of $500; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The petition is GRANTED.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application is being referred to Technology Center AU 2113 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries relating to the prosecution of the application should be referred to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: KELVIN M. VIVIAN
2465 E. BAYSHORE RD, SUITE 406
PALO ALTO, CA 94303

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CINCINNATI OH 45224

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In re Application of	:	
Corzani et al.	:	
Application No. 10/317,335	:	ON PETITION
Filed: December 12, 2002	:	
Attorney Docket No. CM-2378CL	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 19, 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 a Request for Continued Examination (RCE) and an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1020.00 extension of time fee submitted with the petition on May 19, 2006, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

This matter is being referred to Technology Center 1700 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

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OFFICE OF PETITIONS

In re Application of
Lin et al.
Application No. 10/317,336
Filed: December 12, 2002
Attorney Docket Number: 6861.US.02
Title of Invention: PROTEIN KINASE INHIBITORS

ON PETITION

This is a decision on the petition filed February 9, 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 September 26, 2003. 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 December 27, 2003. A Notice of Abandonment was mailed on February 10, 2004.

The requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

Pursuant to petitioner's request deposit account 01-0025 has been charged the $1330.00 petition fee, $1330.00 issue fee and the $300.00 publication fee.

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 (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

WEI-WEN JIAN
SUITE 318
17890 CASTLETON STREET
CITY OF INDUSTRY, CA 91748

In re Application of	:
Wei-Wen Jian	: DECISION DISMISSING
Application No. 10/317,346	: PETITION UNDER
Filed: December 13, 2002	: 37 CFR 1.137(b)
For: OVEN WITH A SPRAYING DEVICE	:

This is a decision on the petition, filed June 13, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See 37 CFR 1.137(f)*.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be filed within TWO MONTHS from the mail date of this decision. Extensions of time are available pursuant to the provisions of 37 CFR 1.136(a).

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 petition fails to comply with items (1) above. Petitioner failed to provide the country of the foreign application on the declaration submitted June 13, 2006.

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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United States Patent and Trademark Office
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OFFICE OF PETITIONS

WEI-WEN JIAN
SUITE 318
17890 CASTLETON STREET
CITY OF INDUSTRY, CA 91748

In re Application of	:	
Wei-wen Kian	:	
Application No. 10/317,346	:	DECISION ON PETITION
Filed: December 13, 2002	:	UNDER 37 CFR 1.55(c)
For: OVEN WITH A SPRAYING DEVICE	:	

This is a decision on the renewed petition under 37 CFR 1.55(c), filed November 22, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign China Application No. 01215275.7, filed February 22, 2001.

The petition is **GRANTED**.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application was filed on December 13, 2002, which is after November 29, 2000. Intermediate Application No. 10/081,015 was filed on February 19, 2002 and within 12 months of February 22, 2001 (the filing date of the foreign application to which benefit is now being claimed). On November 22, 2006, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee has been received. Lastly, petitioner has provided an adequate statement of unintentional delay.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) 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 1.55(c) 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. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed 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 this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed foreign application, accompanies this decision on petition.

As to the matter of transferring ownership of the above patent, an assignment should be submitted and recorded. However, it is unclear as to what applicant's intentions are regarding transferring ownership.

This application is being referred to Technology Center AU 3742 for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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HOFFMAN WARNICK LLC
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OFFICE OF PETITIONS

In re Application of	:	
Chess et al.	:	
Application No. 10/317,357	:	ON PETITION
Filed: December 12, 2002	:	
Attorney Docket No. CHA920020009US1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 20, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and a Pre-Appeal Brief Request for Review, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 3685 for further processing of the Notice of Appeal and the Pre-Appeal Brief Request for Review.

Liana Walsh
Petitions Examiner
Office of Petitions

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Paper No. 4

Frederick W. Gibb, III
McGinn & Gibb, PLLC
Suite 304
2568-A Riva Road
Annapolis MD 21401

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OFFICE OF PETITIONS

In re Application of :
Ghosal et al. :
Application No. 10/317,358 : DECISION ON PETITION
Filed: December 12, 2002 :
Attorney Docket No. JP920020072US1 :

This is a decision on the "Petition in Response to Notice of Omitted Items in a Nonprovisional Application," filed February 19, 2003. This petition is properly treated as a petition under 37 C.F.R. § 1.53(e)(2). Petitioners request that the Office accord the above-identified application a filing date of December 12, 2002, with figure 2 as a part of the original application disclosure.

Application papers in the above-identified application were filed on December 12, 2002. However, on January 30, 2003, the Initial Patent Examination Division mailed applicants a "Notice of Omitted Item(s) in a Nonprovisional Application." Applicants were thereby notified that the application papers had been accorded a filing date; however, figure 2 described in the specification appeared to have been omitted.

In response, applicants timely filed the instant petition (and petition fee). On petition, applicants submit herewith that Figure 2 was filed with the application on December 12, 2002, as evidenced by a copy of the date stamped receipt card which states that 8 Figures (1-8) were filed on the above-referenced date. In support thereof, applicants submitted *inter alia* a copy of their return postcard from the USPTO. Petitioners also submitted a copy of figure 2 as originally filed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of petitioners' postcard receipt reveals that: 1) it was date stamped as received in the USPTO on December 12, 2002, and the items filed therewith were assigned Application No. 10/317,358; 2) it specifically identifies the items being filed, including "8 Sheets ☒ Formal Drawings" and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, petitioners have shown that the items denoted, including the 8 Sheets of Formal Drawings, were filed on December 12, 2002.

The sheets of drawings already considered received in the Office on December 12, 2002, were reviewed along with figure 2 submitted on petition. These papers together constitute the item described on the postcard receipt as "8 Sheets ☒ Formal Drawings - (Figs 1-8)." It is concluded that petitioners have shown that figure 2 was among the items present in the application on the date of

deposit and should be included in the original application disclosure.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, petitioner's request to refund the petition fee is granted. The fee will be credited to Deposit Account No. 09-0441, as authorized.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of December 12, 2002 using the application papers received in the Office and presently accorded that date; and figure 2 resubmitted on petition filed February 19, 2003; and
- for indication in Office records that 8 sheets of drawings (figs 1-8) were present in the application on filing.

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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GIFU-CITY, 500-8368
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OFFICE OF PETITIONS

In re Application of	:	
Yuichi OZEKI et al	:	
Application No. 10/317,360	:	DECISION ON PETITION
Filed: December 12, 2002	:	
Attorney Docket No. OP2002-054	:	

This is a decision on the petition under 37 CFR 1.182, filed October 3, 2006, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition. Petitioner is encouraged to file a Supplemental Application Data Sheet to help ensure that this application will issue with the desired order of inventorship should this application be ultimately allowed. The Supplemental Application Data Sheet must be signed in accordance with 37 CFR 1.33(b).

This application is presently before the Examiner of Technology Center AU 1732 for appropriate action on the reply received January 19, 2007.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/317,360	12/12/2002	1732	1464	OP2002-054	14	25	7

CONFIRMATION NO. 6099

CORRECTED FILING RECEIPT

OC000000022554193

Michael L. Crapenhoft
c/o HIROE & ASSOCIATES
4-3 Usa 3-chome
Gifu-City, 500-8368
JAPAN

Date Mailed: 02/20/2007

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)

Yuichi Ozeki, Nagoya-shi, JAPAN;
Yoshiya Kondo, Nagoya-shi, JAPAN;
Yukinao Watanabe, Nagoya-shi, JAPAN;

Assignment For Published Patent Application

Sanwa Kagaku Kenkyusho Co., Ltd.

Power of Attorney:

Michael Crapenhoft--37115

Domestic Priority data as claimed by applicant

This application is a CON of PCT/JP01/05296 06/20/2001

Foreign Applications

JAPAN 2000-183996 06/20/2000
JAPAN 2000-387052 12/20/2000
JAPAN 2001-42787 02/20/2001
JAPAN 2001-74413 03/15/2001
JAPAN 2001-98571 03/30/2001
JAPAN 2001-125690 04/24/2001

If Required, Foreign Filing License Granted: 03/18/2003

The country code and number of your priority application, to be used for filing abroad under the Paris

Convention, is US10/317,360

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD FOR MANUFACTURING MOLDED ARTICLE WITH CORE

Preliminary Class

264

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).

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)
6825810	2004-11-30	10317364	2002-12-12	

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	/Alex Long/	Date (YYYY-MM-DD)	2009-12-01
Name	Samuel Alexander Long, Jr.	Registration Number	57675

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6825810
Issue Date: November 30,2004
Application No. 10317364
Filed: December 12,2002
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 1,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 1,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HUDAK SHUNK & FARINE CO., L.P.A.
SUITE 307
2020 FRONT ST.
CUYAHOGA FALLS, OH 44221

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JUL 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Larry F. Rhodes et al	:	
Application No. 10/317,366	:	ON PETITION
Filed: December 12, 2002	:	
Attorney Docket No. 201EM050A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 5, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee/publication fee in a timely manner in reply to the Notice of Allowance mailed March 23, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 24, 2005.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

Wan Laymon
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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AUG 11 2005

OFFICE OF PETITIONS

Ricky Lee Andrews
920 West South Temple
Salt Lake City, UT 84104

In re Application of
Andrews
Application No. 10/317,422
Filed: December 12, 2002
For: SCISSOR-LIKE FLOSSING DEVICE

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed June 27, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is not a final agency decision.

This application became abandoned August 22, 2004 for failure to timely reply to the Requirement for Restriction/Election mailed July 21, 2004. The Requirement set a one 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 February 9, 2005.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The present petition fails to satisfy items (1) and (3) set forth above.

As to item (1), the instant petition lacks a reply to the outstanding Requirement. Any renewed petition must be accompanied by a proper reply to the outstanding Requirement.

The present petition lacks requirement (3) set forth above. Petitioner has failed to present a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The Office may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 CFR 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

It is unclear to what, if anything, petitioner attributes the delay in timely responding to the Requirement. A review of the official application file reveals that the Requirement was remailed and the period of time for reply reset at petitioner's request in the Requirement mailed July 21, 2004. Petitioner does not allege to have not received the Requirement. Accordingly, petitioner has failed to establish that the failure to timely reply to the Requirement from the time a reply was required until the filing of a grantable petition has been unavoidable.

Any renewed petition must set forth with specificity and supporting documentation the nature of the delay alleged by petitioner for petitioner's failure to timely reply to the Requirement and must sufficiently establish that the entire period of delay from the time a reply to the Requirement was due until the filing of a grantable petition has been unavoidable.

ALTERNATE VENUE

Petitioner is 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). (See enclosed.)

Further correspondence with respect to this matter should be addressed as follows:

By mail: **Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 272-8300

By hand: U.S. Patent and Trademark Office
Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: PTO-SB-64

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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DEC 22 2005

OFFICE OF PETITIONS

Ricky Lee Andrews
920 West South Temple
Salt Lake City, UT 84104

In re Application of	:
Andrews	: DECISION ON PETITION
Application No. 10/317,422	:
Filed: December 12, 2002	:
For: SCISSOR-LIKE FLOSSING	:
DEVICE	:

This is a decision on the petition renewed under 37 C.F.R. § 1.137(b), filed October 17, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned August 22, 2004 for failure to timely reply to the Requirement for Restriction/Election mailed July 21, 2004. The Requirement set a one month shortened statutory period of time for reply. No petition for extension of time in accordance with 37 C.F.R. § 1.136 was timely submitted. Notice of Abandonment was mailed February 9, 2005. A petition under 37 CFR 1.137(a) was filed June 27, 2005 and dismissed August 11, 2005.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the Restriction/Election Requirement is accepted as having been unintentionally delayed.

Petitioner is advised that the power of attorney/change of correspondence address request submitted with the instant petition has been received, but not entered. Petitioner has attempted to utilize a customer number (33076) without having expressing revoked the prior power of attorney of record. See, generally, MPEP 402.

Accordingly, there is no indication that petitioner herein has been properly 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 application will be forwarded to Technology Center 3700 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: GEOFFREY E. DOBBIN
4278 S 6220 W
WEST VALLEY CITY, UTAH 84128

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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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NOV 1 5 2004

OFFICE OF PETITIONS

In re Application of	:	
Michel Gilbert, et al.	:	
Application No. 10/317,428	:	NOTICE
Filed: December 11, 2002	:	
Attorney Docket No. 019633-000811US		

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3201.

This file is being forwarded to Technology Center 1652 for examination in due course.

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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JUN 1 4 2004

OFFICE OF PETITIONS

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

In re Application of	:	
Salman Akram	:	
Application No. 10/317,443	:	ON PETITION
Filed: December 11, 2002	:	
Attorney Docket No. 3937.	:	

This is a decision on the petition, filed June 9, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

P titioner is advised that the issue fee paid on May 27, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new N tice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2827 for processing of 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of
Salman Akram
Application No. 10/317,443
Filed: December 11, 2002
Attorney Docket No. 3937.

ON PETITION

This is a decision on the petition, filed June 9, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 27, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2827 for processing of 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).

SPE: R. Shukla

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/28/07

TO SPE OF : ART UNIT 1634

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/317,449 Patent No.: 7105299

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: _____

RAM R. SHUKLA, PH.D.
SUPERVISORY PATENT EXAMINER
SPE

1634
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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MAY 15 2003

Paper No. 5

TOWNSEND AND TOWNSEND AND CREW, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

In re Application of	)	
Zhi-Pei Liang et al.	)	
Application No.10/317,~~269~~ 462	)	
Filed: December 11, 2002	)	DECISION ON PETITION
For: FAST METHOD FOR DYNAMIC	)	
MR IMAGING	)	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed April 14, 2003.

The request is APPROVED.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by William L. Shaffer on behalf of all attorneys of record and associated with Customer No. 20350.

The correspondence address of record has been changed and the new correspondence address is the address indicated below. This decision results in the application having no attorney of record.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc. Henry K. Woodward
BEYER WEAVER & THOMAS, LLP
590 West El Camino Real
Mountain View, CA 94040

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APR 30 2003

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

#4

JACK E. DOMINIK, P.A.
MIAMI LAKES CORPORATE PLAZA
SUITE 225
6175 NORTHWEST 153rd STREET
MIAMI LAKES, FL 33014

In re Application of :
Ramzi F. Abulhaj : DECISION ON PETITION
Serial No.: 10/317,515 :
Filed: December 12, 2002 :
For: Syringe Retractable Needle and Method:

This is in response to applicants' petition filed December 12, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, Washington, DC 20231, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director
Technology Center 3700/2900

OCT 30 2003
PATENT & TRADEMARK OFFICE

1724

PATENT

Pet Sec.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:	
Applicant: Dae Yong EOM	Docket No: MODIP003
Application No. 10/317,519	Examiner: Unknown
Filing Date: December 11, 2002	Group Art Unit: 1724
For: AIR FILTER AND METHOD OF USING SAME	Date: October 27, 2003

CERTIFICATE OF MAILING
I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on October 27, 2003.

Signed: _____
Neely Entwistle

REQUEST TO WITHDRAW AS ATTORNEYS

Approved
Jacqueline M. Stone, Director
Technology Center 1700
JUN 29 2004

Commissioner for Patents
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. §1.36 and M.P.E.P. §§402.05 and 402.06, the attorneys of record listed below, on whose behalf the undersigned attorney has signed this request, respectfully request permission to withdraw as attorneys of record in the above-identified patent application.

The foreign law firm of Modern International (Modern) of Korea, from whom the undersigned takes direction has failed to pay for government fees, and services rendered for attorney filing and prosecution in this application. Numerous requests have been made to Modern for payment over the past 10 months, however, no payment has been made. As no payment has been made, the attorneys of record can no longer continue to fund activities of Modern or its national clients.

The withdrawing attorneys of record are those of **Customer No. 25,920.**

☐ There is currently an outstanding office action received by the undersigned attorney prior to the date of this Request to Withdraw for which a response is now due to be filed on _____.

☒ There is currently no outstanding office action received by the undersigned attorney prior to the date of this Request to Withdraw.

The attorneys listed above, on whose behalf the undersigned attorney has signed this Request, respectfully request permission to withdraw as attorneys of record in the above-identified patent application, and request that all future correspondence regarding this application be addressed to:

Modern International
4F, Youseong Building, 981-24
Bangbae 3-dong, Seocho-gu
Seoul 137-848
KOREA
Tel: 822-598-6024

A copy of this Request is being sent to Mssrs. M.K. Han and B.I. Park of Modern at the last-known address in accordance with 37 C.F.R. §10.40(a). This Request to Withdraw is being submitted in triplicate.

Martine & Penilla, LLP
Respectfully submitted,

By: _____
Albert S. Penilla, Esq. 39,487

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JUN 23 2009

TECHNOLOGY CENTER 2100

Hunter E. Webb
HOFFMAN WARNICK LLC
75 State Street, 14th Floor
Albany, NY 12207

In re Application of: BERTHAUD, Jean-Marc, et. al.
Application No. **10/317,522**
Attorney Docket No. FR920010086US1
Filed: December 12, 2002
For: METHOD OF SYNCHRONIZING FIREWALLS IN A COMMUNICATION SYSTEM BASED UPON A SERVER FARM

DECISION ON PETITION TO RESET PERIOD FOR REPLY

This is a decision on the petition filed on September 12, 2008, requesting that the shortened statutory period for reply set forth in the Advisory Action mailed on May 6, 2008 be reset to run from a date on which the Advisory Action were actually mailed.

This petition is **DISMISSED**.

In the review of the prosecution history, a Final office action was mailed on January 23, 2008 with a shortened statutory period for reply to the Final office action set to expire THREE MONTHS, but in no event can the period extend beyond 6 months from the date of the Final rejection. Applicant filed an Amendment after Final on March 24, 2008. An advisory action was mailed on May 6, 2008. A Petition stating that the advisory action was never received and requesting the shortened statutory period for reply for the advisory action be reset was received on September 12, 2008.

REGULATIONS AND PRACTICE

37 C.F.R. § 1.116 (c) states:

The admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or reexamination proceeding from its condition as subject to appeal or to save the application from abandonment under § 1.135, or the reexamination prosecution from termination under § 1.550(d) or §1.957(b) or limitation of further prosecution under § 1.957(c).

The relevant portion of MPEP § 714.13 states:

It should be noted that under 37 CFR 1.181(f), the filing of a 37 CFR 1.181 petition will not stay the period for reply to an examiner's action which may be running against an application.

DECISION

37 C.F.R. § 1.116(c) states that the admission of any amendment after a final action will not operate to save the application from abandonment under § 1.135. MPEP § 714.13 states that a filing of a 37 CFR 1.181 petition will not stay the period for reply to an examiner's action which may be running against an application.

Applicant's filing of the Amendment after Final on March 24, 2008 and the petition for requesting to reset the time period for reply on September 12, 2008 do not stay the period for reply to the Final office action mailed on January 23, 2008.

For the above-stated reasons, the petition is **DISMISSED**.

The application is hereby **ABANDONED**

The Office communication will be remailed and the shortened statutory period that was originally set forth in the Advisory Action shall be restarted to run from the mail date of the newly supplied Advisory Action.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-3902. If attempts to reach the undersigned by telephone are unsuccessful, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.

/pl/

/Beatriz Prieto/

Beatriz Prieto, Quality Assurance Specialist
Technology Center 2400
Networking, Multiplexing, Cable and Security

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/317,522	12/12/2002	Jean-Marc Berthaud	FR920010086US1	6595

45092 7590 06/24/2009
HOFFMAN WARNICK LLC
75 STATE ST
14TH FLOOR
ALBANY, NY 12207

EXAMINER
NGUYEN, THUONG

ART UNIT	PAPER NUMBER
2455	

NOTIFICATION DATE	DELIVERY MODE
06/24/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOCommunications@hoffmanwarnick.com

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JUL 06 2009

TECHNOLOGY CENTER 2100

Hunter E. Webb
HOFFMAN WARNICK LLC
75 State Street, 14th Floor
Albany, NY 12207

In re Application of: BERTHAUD, Jean-Marc, et. al.
Application No. **10/317,522**
Attorney Docket No. FR920010086US1
Filed: December 12, 2002
For: METHOD OF SYNCHRONIZING FIREWALLS IN A COMMUNICATION SYSTEM BASED UPON A SERVER FARM

SUPPLEMENTAL
DECISION ON PETITION TO RESET PERIOD FOR REPLY

This is a supplemental decision on the petition filed on September 12, 2008, a decision was mailed on 6/23/09 which inadvertently included the following paragraph:

> The Office communication will be remailed and the shortened statutory period that was originally set forth in the Advisory Action shall be restarted to run from the mail date of the newly supplied Advisory Action.

This supplemental decision has been issued to clarify the record, hereby removing the above mentioned paragraph.

Furthermore, it is respectfully noted that if the time period for reply to the last Office action (or notice) has expired, the application is abandoned and the applicant must file a petition under 37 CFR §1.137 and the required petition fee to revive the abandoned application. Unless prosecution in the application was not closed, the petition must be accompanied by a submission as defined by 37 CFR §1.114(c) and the fee set forth in 37 CFR 1.17(e), unless previously filed. (see MPEP §201.06(d))

The entire content of decision mailed 6/23/09 remains the same except for the **removal** of the above mentioned paragraph and is hereby presented for applicant's convenience.

This is a decision on the petition filed on September 12, 2008, requesting that the shortened statutory period for reply set forth in the Advisory Action mailed on May 6, 2008 be reset to run from a date on which the Advisory Action were actually mailed.

This petition is **DISMISSED**.

In the review of the prosecution history, a Final office action was mailed on January 23, 2008 with a shortened statutory period for reply to the Final office action set to expire THREE

MONTHS, but in no event can the period extend beyond 6 months from the date of the Final rejection. Applicant filed an Amendment after Final on March 24, 2008. An advisory action was mailed on May 6, 2008. A Petition stating that the advisory action was never received and requesting the shortened statutory period for reply for the advisory action be reset was received on September 12, 2008.

REGULATIONS AND PRACTICE

37 C.F.R. § 1.116 (c) states:

The admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or reexamination proceeding from its condition as subject to appeal or to save the application from abandonment under § 1.135, or the reexamination prosecution from termination under § 1.550(d) or §1.957(b) or limitation of further prosecution under § 1.957(c).

The relevant portion of MPEP § 714.13 states:

It should be noted that under 37 CFR 1.181(f), the filing of a 37 CFR 1.181 petition will not stay the period for reply to an examiner's action which may be running against an application.

DECISION

37 C.F.R. § 1.116(c) states that the admission of any amendment after a final action will not operate to save the application from abandonment under § 1.135. MPEP § 714.13 states that a filing of a 37 CFR 1.181 petition will not stay the period for reply to an examiner's action which may be running against an application.

Applicant's filing of the Amendment after Final on March 24, 2008 and the petition for requesting to reset the time period for reply on September 12, 2008 do not stay the period for reply to the Final office action mailed on January 23, 2008.

For the above-stated reasons, the petition is **DISMISSED**.

The application is hereby **ABANDONED.**

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-3902. If attempts to reach the undersigned by telephone are unsuccessful, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.

/pl/

/Beatriz Prieto/

Beatriz Prieto, Quality Assurance Specialist
Technology Center 2400
Networking, Multiplexing, Cable and Security

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OFFICE OF PETITIONS

HOFFMAN WARNICK LLC
75 STATE ST
14TH FLOOR
ALBANY NY 12207

In re Application of	:	
Jean-Marc BERTHAUD et al.	:	
Application No. 10/317,522	:	DECISION ON PETITION
Filed: December 12, 2002	:	
Attorney Docket No. FR920010086US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 25, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 23, 2008, which set a shortened statutory period for reply of three (3) months. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is April 24, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571)

This application is being referred to Technology Center AU 2455 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

Pet. Dec.

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ALEXANDRIA, VA 22313-1450
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Mailed: MAY 18 2004

CST

In re application of Rodney M. LaFollette et al Serial No. 10/317,539 Filed: December 10, 2002 For: MICROSCOPIC BATTERIES FOR MEMS SYSTEMS	:	DECISION ON PETITION

This is a decision on the petition filed April 8, 2004 requesting that the above-identified application be granted Special Status under sections 708.02 (V) and (VI) of the MPEP and 37 CFR 1.102(c) – no fee required.

The request for Special Status is granted because the criteria set forth in MPEP 708.02 (V) and (VI) and 37 CFR 1.102(c) has been met.

The petition is GRANTED.

Christine Tierney
Special Program Examiner, Technology Center 1700
571-272-1055

Lynn G. Foster
602 E. 300 S.
Salt Lake City UT 84102

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wk

Mailed: 9/29/06

In re application of	:	
LaFollette et al.	:	DECISION ON
Serial No. 10/317,539	:	PETITION
Filed: December 10, 2002	:	
For: MICROSCOPIC BATTERIES FOR MEMS SYSTEMS	:	

This is a response to applicant's petition under 37 C.F.R. 1.181. Applicant requests that the application be reassigned to another Examiner to insure prompt filing of the Examiner's Answer. That Jacqueline Stone supervise an expedited preparation of the Examiner's answer and that the Examiner be instructed to file with the Board of Patent Appeals and Interferences and serve on the Attorney for the Applicants the Examiners Answer within 15 days of the decision on this renewal petition.

A review of the current application shows the following. On June 6, 2004 a restriction requirement was mailed out. Applicant responded on July 1, 2004 and the examiner issued a non-final office action on August 5, 2004. Applicant filed a response on November 1, 2004 and letter of non-compliant was mailed on November 8, 2004. A supplemental amendment was filed on November 9, 2004. A Notice of Failure to Acceptably Respond to Notice of Non-Compliant was mailed November 23, 2004 based on the November 9, 2004 amendment document. Applicant filed a response on November 15, 2005. Applicant filed a Notice of Appeal on December 20, 2004 and an Appeal Brief on December 23, 2004. On September 26, 2005, the examiner issued a final rejection.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

The Petition is **Dismissed** in view of the indication of notice of allowance on 9/27/06

William Krynski, Special Program Examiner
Technology Center 1700
Chemical and Materials Engineering

Lynn G. Foster
602 East 300 South
Salt Lake City, Utah 84102

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HANLEY, FLIGHT & ZIMMERMAN, LLC
Suite 2100
150 S. Wacker Drive
Chicago IL 60606

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AUG 15 2008

In re Application of	:	
Michael A. Rothman et al.	:	
Application No. 10/317,579	:	DECISION ON PETITION
Filed: December 12, 2002	:	
Attorney Docket No. 20002/15505	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 29, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571)272-4584.

This application is being referred to Technology Center AU 2116 for appropriate action by the Examiner in the normal course of business on the reply received.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 4

SANOFI-SYNTHELABO INC.
9 GREAT VALLEY PARKWAY
P.O. BOX 3026
MALVERN, PA 19355

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OFFICE OF PETITIONS

In re Application of :
Bignon, et al. :
Application No. 10/317,583 : ON PETITION
Filed: December 12, 2002 :
Attorney Docket No. IVD 999-2 :

This is a decision on the papers styled "Petition" filed on April 7, 2003, which is being treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of December 12, 2002, including page 123 of the specification.

The application was filed on December 12, 2002. However, on March 21, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Omitted Item(s)" that stated the application had been accorded a filing date, but page 123 of the specification appears to have been omitted.

In response, on April 7, 2003, the instant petition and a copy of page 123 of the specification were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of one hundred thirty-nine (139) pages of specification and claims on December 12, 2002. A review of the application file indicates the presence of one hundred thirty-eight (138) pages of specification and claims. It is assumed that page 123 of the specification 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 7, 2003, will be refunded to deposit account no. 19-0091.

This application will be returned to OIPE for further processing with a filing date of December 12, 2002, using the copy of page 123 of the specification, supplied on April 7, 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

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PATRICK G. BURNS, ESQ.
GREER BURNS & CRAIN, LTD.
SUITE 2500
300 SOUTH WACKER DRIVE
CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of :
Manabu Takase et al :
Application No. 10/317,617 : ON PETITION
Filed: December 12, 2002 :
Attorney Docket No. 1503.67137

This is a decision on the petition filed, December 4, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 21, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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ALEXANDRIA, VA 22313-1450
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Paper No. 4

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OCT 0 3 2003
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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

In re Application of Sen, et al. Application No. 10/317,635 Filed: December 12, 2002 Atty. Dkt. No.: ABTT-0337/B000671 For: MULTI-LINE POWER FLOW TRANSFORMER FOR COMPENSATING POWER FLOW AMONG TRANSMISSION LINES	DECISION DISMISSING PETITION UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed August 21, 2003.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed December 12, 2002 without an executed oath or declaration and naming Kalyan K. Sen and Mey Ling Seng as joint inventor. Accordingly, on January 22, 2003, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and surcharge.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is required to preserve the rights of the parties or to prevent irreparable damages.

The instant petition lacks requirement (1) set forth above. Petitioner has failed to establish that the non-signing inventors and/or the non-signing inventors' legal representative received a complete copy of the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute an oath or declaration. Petitioner has merely stated that a copy of a declaration and power of attorney was sent to the legal representative of the non-signing inventors and that a refusal to sign the declaration was received in return from the legal

representative.

Petitioner is reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that *bona fide* effort has been made to present a copy of the application papers (**specification, claims, drawings, and oath or declaration**) to the non-signing inventors or the legal representative of the non-signing inventors. A copy of the application papers should be sent to the last known address of the non-signing inventors or to the address of the non-signing inventors' attorney. *See*, MPEP 409.03(d). Any renewed petition must be accompanied by evidence that inventors, after having been presented with the complete application papers, refused to execute the oath or declaration.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 308-6916
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, **Mail Stop Petition** Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 6

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

COPY MAILED
DEC 03 2003
OFFICE OF PETITIONS

In re Application of	:
Sen, et al.	:
Application No. 10/317,635	: DECISION NOTING JOINDER
Filed: December 12, 2002	: OF INVENTOR AND PETITION
Atty. Dkt. No. ABTT-0337/B000671	: UNDER 37 CFR 1.47(b) MOOT
For: MULTI-LINE POWER FLOW	:
TRANSFORMER FOR COMPENSATING	:
POWER FLOW AMONG TRANSMISSION	:
LINES	:

This decision is in response to the renewed petition under 37 CFR 1.47(b), filed November 26, 2003.

In view of the joinder of the inventors, further consideration under 37 CFR 1.47(b) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47(b) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(b).

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060507

DATE : May 7, 2006

TO SPE OF : ART UNIT 1744

SUBJECT : Request for Certificate of Correction on Patent No.: 6,912,757

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:

GLADYS JP CORCORAN
SUPERVISORY PATENT EXAMINER

SPE: Gladys JP Corcoran **Art Unit** 1744

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.	:	6,912,757 B2
APPLICATION NO.	:	10/317,637
ISSUE DATE	:	July 5, 2005
INVENTOR(S)	:	Alan D. Kaufman et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Claim 7
Column 5, Line 12
Please delete the word "normally."

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Attention: Certificate of Correction Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: September 30, 2005 Signature: _____ (Robert M. Gerstein)

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Robert M. Gerstein
MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357

OCT 11 2005

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

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Thomas McCaffrey	: DECISION ON REQUEST FOR
Patent Number	: 7660726	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/317,645	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/11/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1327** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 05/18/2010

Applicant : Thomas McCaffrey
Patent Number : 7660726
Issue Date : 02/09/2010
Application No : 10/317,645
Filed : 12/11/2002

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1354** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LOS ALAMOS NATIONAL SECURITY, LLC
LOS ALAMOS NATIONAL LABORATORY
PPO. BOX 1663, LC/IP, MS A187
LOS ALAMOS NM 87545

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DEC 07 2009

OFFICE OF PETITIONS

In re Patent No. 7,014,931	:	
Issue Date: March 21, 2006	:	
Application No. 10/317,654	:	NOTICE
Filed: December 12, 2002	:	
Attorney Docket No. S-100,546	:	

This is a notice regarding your request filed October 8, 2009, for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **NOT ACCEPTED**.

It appears that the petition was not properly signed by a person having authority to prosecute in the above-identified patent. Therefore, the request can not be accepted at this time.

Petitioner's attention is directed to 37 CFR 1.33(b), which states.

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
>
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Accordingly, the request cannot be accepted until it is signed by all inventors, an attorney /agent who is registered to practice before the U.S. Patent and Trademark Office, or the assignee of the entire interest. If the request is signed by an assignee, the assignee the assignee must comply with the requirements of 37 CFR 3.73(b).

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES 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.

WOODARD EMHARDT MORIARTY
MCNETT & HENRY LLP
BANK ONE CENTER/TOWER
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS, IN 46204-5137

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AUG 2 5 2003

OFFICE OF PETITIONS

In re Application of :
Igor Y. Khandros et al :
Application No. 10/317,661 : NOTICE
Filed: December 12, 2002 :
Attorney Docket No. 20206-22

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 2800.

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
DW 02-03

Paper No. 4

RATNERPRESTIA
P O BOX 980
VALLEY FORGE PA 19482-0980

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OFFICE OF PETITIONS

In re Application of	:
Kutsumi et al.	:
Application No. 10/317,668	: DECISION GRANTING PETITION
Filed: 10 December, 2002	:
Att'y Dckt. No. MTS-2580US1	:

This is a decision on the paper captioned "Petition in Response to Notice of Incomplete Application" filed on 4 February, 2003, which is treated as a petition under 37 CFR 1.53(e) to accord the above-identified application a filing date of 10 December, 2002, with a specification, including at least one claim, as a part of the original disclosure.

On 10 December, 2002, the application was filed.

On 27 January, 2003, the Office of Initial Patent Examination (OIPE) mailed a Notice of Incomplete Nonprovisional Application stating that the application was incomplete since the specification, including at least one claim, was missing. The Notice stated that the filing date will be the date of receipt of the specification, including at least one claim.

In response, on 4 February, 2003, the present petition was filed, accompanied by, *inter alia*, 104 pages of specification, including 84 claims and one (1) page of abstract. Petitioners argue that the specification was filed with the other application papers on 10 December, 2002, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard shows an Office-date stamp of 12/10/02 and contains the above-identified application number. The postcard also identifies the application by first named inventor's name and docket number, and itemize the filing of, *inter alia*, "spec. & claims (106 pgs). Petitioners request that the application, including the 106 pages of specification and claims, be accorded a filing date of 10 December, 2001.

A review of the record reveals that no specification, including claims is located among the application papers deposited on 10 December, 2002. However, the evidence is convincing that the application papers deposited on 10 December, 2002, included 106 pages of specification and claims, including one (1) page of abstract. Therefore, the application, including 106 pages of specification, 84 claims, and one (1) page of abstract, is entitled to a filing date of 10 December, 2002.

The "Notice" mailed on 27 January, 2003, is vacated.

In view of the above, the petition is granted. No petition fee has been charged and none is due.

The application will be processed using the application papers filed on 6 July, 2001, and the 106 pages of specification, 84 claims, and abstract supplied on 4 February, 2003. The copies of the other application papers provided on 4 February, 2003, will not be used for processing or examination, but will be retained in the application file.

The application is being returned to Initial Patent Examination Division for reprocessing with a filing date of 10 December, 2002, using the application papers filed on 10 December, 2002, and the copy of the specification (description and claims) and abstract supplied on 4 February, 2003.

Telephone inquires should be directed to the undersigned at 703 308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 5

HENRY L. EHRLICH
910 TRAVIS, STE. 2400
BANK ONE CENTER
HOUSTON, TX 77002

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JUN 1 7 2003

OFFICE OF PETITIONS

In re Application of
Michael Smith, Leslie Skinner and Charles Overstreet
Application No.10/317,675
Filed: December 12, 2002
Attorney Docket Number: 21947-P001R
Title of Invention: COMBINED DRILLING APPARATUS AND METHOD

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed May 9, 2003.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the reissue application was presented to non-signing inventor. A letter from inventor's representative establishes the reissue application papers were received. The non-signing inventor's explicit refusal to execute the declaration sufficiently establishes that he refuses to execute the reissue 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 reissue 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
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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RG AND ASSOCIATES
1103 TWIN CREEKS
ALLEN TX 75013

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AUG 1 1 2009

OFFICE OF PETITIONS

In re Application of
Kashipati G. Rao et al
Application No. 10/317,686
Filed: December 12, 2002
Attorney Docket No. 135912USNP

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 16, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed January 24, 2008, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2619 for appropriate action by the Examiner in the normal course of business on the reply received June 16, 2009.

/KOC/
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

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL BUSINESS CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

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AUG 2 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Italo Corzani, et. al.	:	
Application No. 10/317,687	:	ON PETITION
Filed: December 12, 2002	:	
Attorney Docket No. CM2377C	:	
	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on May 19, 2006, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed April 16, 2004. A Notice of Abandonment was mailed on June 28, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (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 3761, for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AT&T CORP.
ROOM 2A207
ONE AT&T WAY
BEDMINSTER NJ 07921

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DEC 2 3 2008

OFFICE OF PETITIONS

In re Application of :
Paul Shala Henry, et al. :
Application No. 10/317,694 : ON PETITION
Filed: December 12, 2002 :
Attorney Docket No. 2001-0538 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 12, 2008, to revive the above-identified application.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 31, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is November 30, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

The petition is **GRANTED**.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 2137 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

cc: GARY H. MONKA
CANAVAN & MONKA, LLC
62 GROVE STREET
SOMERVILLE, NJ 08876

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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KATTEN MUCHIN ZAVIS ROSENMAN
575 MADISON AVENUE
NEW YORK NY 10022-2585

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OFFICE OF PETITIONS

In re Application of	:	
Garcia, et al.	:	
Application No. 10/317,702	:	ON PETITION
Filed: December 12, 2002	:	
Attorney Docket No. HERR.20.149	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on October 7, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to a non-final Office action, mailed March 24, 2004, which set three (3) months extendable period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on June 25, 2004. A Notice of Abandonment was not mailed in this case.

Applicants have submitted a proper reply in the form of an amendment, an acceptable statement of the unintentional nature of the delay in responding to the March 24, 2004 non-final Office action, and the petition fee.[1]

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center G.A.U. 1615 for further examination.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 3272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

[1] Pursuant to petitioners' authorization, deposit account no. 50-1290 will be charged a petition fee of $1,370.00.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY, MD 21043

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SEP 13 2005

OFFICE OF PETITIONS

In re Application of :
Chang, et al. :
Application No. 10/317,712 : ON PETITION
Filed: December 11, 2002 :
Attorney Docket No. MR2723-381 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 31, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply to the "Notice To File Corrected Application papers" mailed March 19, 2005, which set a 30 day period for reply. Accordingly, this application became abandoned on April 19, 2005. A Notice of Abandonment was mailed on July 25, 2005.

This application is being forwarded to Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

Morrison & Foerster LLP
755 Page Mill Road
Palo Alto CA 94304-1018

In re Application of
PEREZ
Application No. 10/317,714
Filed: December 11. 2002
Attorney Docket No. 464802000110

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 5, 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 Charles D. Holland 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.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on September 19, 2006 included an improper statement under 37 CFR 3.73(b) and is therefore not accepted. The Statement under

37 CFR 3.73(b) is improper in that the reel and frame number is not assigned to the above application.

There is an outstanding Office action mailed July 24, 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: Edward Perez
799 Berkeley Street, H
Menlo Park, CA 94025

cc: **LEVINE BAGADE LLP**
ATTN: Laura Shires
2483 East Bayshore Road, Suite 100
Palo Alto, CA 94303

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/317,714	12/11/2002	Edward Perez	464802000110

CONFIRMATION NO. 7438

OC000000020945095

E. Thomas Wheelock
Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

Date Mailed: 10/23/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/05/2005.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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LEVINE BAGADE HAN LLP
2483 EAST BAYSHORE ROAD, SUITE 100
PALO ALTO CA 94303

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OCT 27 2008

In re Application of	:	
PEREZ, Edward	:	
Application No. 10/317,714	:	DECISION ON PETITION
Filed: December 11, 2002	:	TO WITHDRAW
Attorney Docket No. **TSSNNZ00302**	:	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 15, 2008.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that acts (1) thru (3) noted in the above-identified certifications have been performed.

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 Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **E. THOMAS WHEELOCK**
TISSUE ENGINEERING REFRACTION, INC.
P.O. BOX 61168
PALO ALTO CA 94306

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 5

ANTHONY EDW J CAMPBELL
PO BOX 160370
AUSTIN TX 78716

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OFFICE OF PETITIONS

In re Application of	:	
Erica J. Florea	:	
Application No. 10/317,725	:	DECISION GRANTING PETITION
Filed: December 11, 2002	:	
Attorney Docket No. WPC790	:	

This is a decision on the "PETITION UNDER 37 CFR 1.53", filed August 2, 2004, to accord the above-identified application a filing date of December 11, 2002.

The application was deposited on December 11, 2002. However, on May 20, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", stating that the application had not been accorded a filing date because the application was deposited without drawings.

Applicant has not submitted *prima facie* evidence in the form of a stamped postcard receipt to establish that drawings were submitted on filing. See MPEP § 503.

However, as stated in MPEP § 601.01(f), it is the practice of the PTO to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but

> filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

This instant application contains a method claim, specifically claim 11.

Therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

In view of the above, the petition under 37 CFR 1.53 is **GRANTED**.

The "Notice of Incomplete Nonprovisional Application", mailed January 29, 2003, was mailed in error and is hereby **VACATED**.

The above-identified application is accorded a filing date of December 11, 2002, as requested in the petition.

Given the basis for granting this petition, no petition fee has been charged.

It is noted that the petition under 37 CFR 1.137(b), filed July 19, 2004, is inappropriate because the present application was never accorded a filing date. As the application was not accorded a filing date, the application did not become abandoned and therefore is not subject to revival under 37 CFR 1.137(b).

In view thereof, the petition under 37 CFR 1.137(b) is **DISMISSED AS INAPPROPRIATE**.

The $665 petition fee filed for the 37 CFR 1.137(b) petition will be refunded to petitioner under separate cover.

In addition, it appears that petitioner was charged twice for the petition under 37 CFR 1.53 (once on August 2, 2004, and again when the petition was re-filed on September 8, 2004). Accordingly, $130 will also be refunded to petitioner under separate cover.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of December 11, 2002, using the application papers received in the Office on that date and for indication on the file wrapper label to show that "0" sheets of drawings were present on filing. Thereafter the application will be forwarded to the examiner for consideration of the drawings filed July 19, 2004.

Telephone inquiries specific to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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FOLEY & LARDNER
777 EAST WISCONSIN AVENUE
SUITE 3800
MILWAUKEE, WI 53202-5308

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OFFICE OF PETITIONS

In re Application of	:	
Smith et al.	:	
Application No. 10/317,733	:	DECISION GRANTING PETITION
Filed: December 12, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 074489-0107	:	

This is a decision on the petition, filed June 14, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on March 19, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of October 14, 2004 accompanies this decision on petition.

This matter is being forwarded to Technology Center AU 2857 to await a reply to the outstanding non-final Office action mailed April 29, 2004. Failure to timely reply will again result in the abandonment of the application.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-0482.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P O BOX 1497
MADISON, WI 53701-1497

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DEC 14 2005

OFFICE OF PETITIONS

In re Application of	:
Charlotte A. Smith et al	:
Application No. 10/317,733	: DECISION GRANTING PETITION
Filed: December 12, 2002	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 074489-0107	:

This is a decision on the petition, filed December 13, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 7, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2857 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 at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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Paper No. 7

VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

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AUG 25 2003

OFFICE OF PETITIONS

In re Application of
Shahrier
Application No. 10/317,769
Filed: December 12, 2002
Attorney Docket No. I-2-0259.1US
For: SYSTEM FOR CONTEXT TRANSFER FOR WIRELESS INTERNET DEVICES

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed June 30, 2003 (certificate of mailing date June 27, 2003).

The petition is granted.

Petitioner has shown that the non-signing inventor, Sharif M. Shahrier, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Attorney Anthony R. Carlis and accompanying exhibits establish that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration. In addition, petitioner has shown that Interdigital Communications Corporation has a proprietary interest in the above-identified application with the copy of the employment agreement showing that the inventor had an obligation to assign any patent rights to Interdigital Communications Corporation. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to Technology Center 2600 for examination in due course.

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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ALEXANDRIA, VA 22313-1450
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SHARIF SHAHRIER
348 PHILIPPA PLACE
LAKE MARY FL 32746

In re Application of
Shahrier
Application No. 10/317,769
Filed: December 12, 2002
Attorney Docket No. I-2-0259.1US
For: SYSTEM FOR CONTEXT TRANSFER
FOR WIRELESS INTERNET DEVICES

LETTER

COPY MAILED
AUG 25 2003
OFFICE OF PETITIONS

Dear Mr. Shahrier:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As the named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

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EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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SEP 2 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Michel Gilbert et al	:	
Application No. 10/317,773	:	NOTICE
Filed: December 11, 2002	:	
Attorney Docket No. 019633-000812US	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This matter is being referred to Technology Center AU 1652.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20070718

DATE : July 18, 2007

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction on Patent No.:

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - 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.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

Anthony Stashick

SPE: 3746 Art Unit

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,147,441

APPLICATION NO.: 10/317,777

ISSUE DATE : December 12, 2006

INVENTOR(S) : Ingrid Fritsch, Christopher S. Carter and Zoraida P. Aguilar

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:

Paragraph (60), line 2, change "60/278,278" to --60/278,275--

Column 1, line 13, change "60/278,278" to --60/278,275--

MAILING ADDRESS OF SENDER (Please do not use customer number below):

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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King & Jovanovic, PLC
170 College Avenue
SUITE 230
HOLLAND MI 49423

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MAY 2 3 2006

OFFICE OF PETITIONS

In re Application of
Kosch
Application No. 10/317,795
Filed: December 12, 2002
Attorney Docket No. MEG 021081
For: SLAT WALL ASSEMBLY

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on January 23, 2006 (certificate of mailing date January 18, 2006) to revive the above-identified application.

This application became abandoned for failure to timely respond to the final Office action mailed January 21, 2005, which set an extendable three month period for reply. Applicant submitted an amendment after final on April 18, 2005. The amendment was non-compliant, as explained in the June 23, 2005 Notice of Non-Compliant Amendment. Petitioner filed an amendment on July 11, 2005. This amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the October 12, 2005 Advisory action. It is noted that no extensions of time were charged when the July 11, 2005 amendment was filed. This application became abandoned on April 22, 2005. A Notice of Abandonment was mailed on December 19, 2005.

Applicant has submitted a RCE and required fee and a request to use the July 11, 2005 (certificate of mailing date July 6, 2005) amendment as the submission in reply to the January 21, 2005 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the January 21, 2005 final Office action, and the petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 3632 for consideration of the RCE filed on January 23, 2006 (certificate of mailing date January 18, 2006).

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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ORRICK, HERRINGTON & SUTCLIFFE, LLP
IP PROSECUTION DEPARTMENT
4 PARK PLAZA
SUITE 1600
IRVINE, CA 92614-2558

Mail Date: 04/21/2010

Applicant	: Sajit Bhaskaran	: DECISION ON REQUEST FOR
Patent Number	: 7620040	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/317,809	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/11/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1931** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 052404

ALCATEL USA
INTELLECTUAL PROPERTY DEPARTMENT
3400 W. PLANO PARKWAY, MS LEGL2
PLANO, TX 75075

MAY 26 2004

In re Application of)
James T. Theodoras II)
Application No. 10/317,820)
Filed: December 12, 2002)
For: Attorney Docket No. 132267CNT)

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed October 14, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above listed requirements.

The request is APPROVED.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Jose' G. Dees, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Peter Eng
Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304-1050

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United States Patent and Trademark Office
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Patrick J. Halloran
Aventis Pasteur
Intellectual Property - Knerr Building
One Discovery Drive
Swiftwater PA 18370

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FEB 05 2007

OFFICE OF PETITIONS

In re Application of
Cox, et al.
Application No. 10/317,821
Filed: December 12, 2002
Docket No.: API-01-17-US

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 22, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Office action mailed September 29, 2005. The Notice set a one month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. Notice of Abandonment was mailed May 9, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

The correspondence address indicated in the instant petition differs from that contained in the official record for the instant application. Practitioner is advised that all future correspondence concerning this application will be directed to the correspondence address of record until such time as proper instruction is received to the contrary.

This application is being forwarded to Technology Center 1600 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: Patrick J. Halloran
3141 Muirfield Rd.
Center Valley, PA 18034

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KNOBBE MARTENS OLSON & NEAR LP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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NOV 25 2003

OFFICE OF PETITIONS

In re Application of
Girard et al.
Application No. 10/317,832
Filed: December 12, 2002
Attorney Docket No. BIOBANK.009A

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.183

This is a decision on the petition under 37 CFR 1.183 filed August 18, 2003, which is being treated as a petition to waive the requirements of 37 CFR 1.98.

The petition is **granted in part**.

Petitioners seek waiver of the requirement to supply a complete copy of two references cited in the IDS filed August 6 (sic, 14) 2003; PCT publication Nos. WO 00/58473 and WO 01/57190. Petitioners assert that each document contains a sequence listing greater than some 5000 pages each, and further, as petitioners believe that the USPTO has a copy of each listing in its electronic database, it would constitute an undue burden on both petitioners and the USPTO to process the complete paper files..

Based on inspection of the WIPO database, WO 00/58743 corresponds to PCT /US00/08621, and WO 01/57190 corresponds to PCT/US01/04098. Unfortunately for petitioners, as neither the former document nor its corresponding PCT application appear to have an entry in the USPTO ABSS electronic database, the requested relief is **dismissed** as to WO 00/58743, which corresponds to PCT/US/08621.

However, the petition is **granted** with respect to WO 01/57190, which corresponds to PCT/US01/04098, as the sequence listing of the latter document has been entered in the USPTO electronic database.

Telephone inquiries regarding this decision may be directed to the undersigned at (703) 305-1820.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Jean-Philippe Girard	: DECISION ON REQUEST FOR
Patent Number	: 7572886	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/317,832	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/10/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1009** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 05/17/2010

Applicant : Jean-Philippe Girard
Patent Number : 7572886
Issue Date : 08/11/2009
Application No : 10/317,832
Filed : 12/10/2002

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1031** 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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Eitan Zehavi
12 Alonim Street
Kiriat Tivon 3600
Isreal

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JUL 1 4 2003

OFFICE OF PETITIONS

In re Application of:
Eitan Zehavi, David Chiel and
Michael L. Suter
Application No. 10/317,833
Filed: December 12, 2002
Title of Invention: FRUIT
HARVESTER COLLECTION APPARATUS
WITH COMPACT CONVEYOR
ARRANGEMENT AND
ASSOCIATED METHODS

LETTER

Dear Mr. Zehavi:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A.
1401 CITRUS CENTER
255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO, FL 32802-3791

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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David Chiel
21 Givat Hamoreh Street
Afula Ilit
Isreal

In re Application of:
Eitan Zehavi, David Chiel and
Michael L. Suter
Application No. 10/317,833
Filed: December 12, 2002
Title of Invention: FRUIT
HARVESTER COLLECTION APPARATUS
WITH COMPACT CONVEYOR
ARRANGEMENT AND
ASSOCIATED METHODS

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OFFICE OF PETITIONS

LETTER

Dear Mr. Chiel:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A.
1401 CITRUS CENTER
255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO, FL 32802-3791

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255 SOUTH ORANGE AVENUE
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ORLANDO, FL 32802-3791

Paper No. 7

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OFFICE OF PETITIONS

In re Application of:
Eitan Zehavi, David Chiel and
Michael L. Suter
Application No. 10/317,833
Filed: December 12, 2002
Title of Invention: FRUIT HARVESTER
COLLECTION APPARATUS WITH COMPACT
CONVEYOR ARRANGEMENT AND
ASSOCIATED METHODS

DECISION GRANTING
STATUS
UNDER 37 CFR 1.47(a)

This Decision is in response to a Petition Under 37 C.F.R. 1.47(a), filed May 12, 2003 (Certificate of Mailing dated May 5, 2003), to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventors, Eitan Zehavi and David Chiel, refuse to sign the declaration.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being returned to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 8

ALLEN DYER DOPPELT MILBRATH & GILCHRIST P.A.
1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO, FL 32802-3791

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JUL 1 6 2003

OFFICE OF PETITIONS

In re Application of	:
Michael L. Suter et al	:
Application No. 10/317,834	: DECISION GRANTING STATUS
Filed: December 12, 2002	: UNDER 37 CFR 1.47(A)
For: FRUIT TRAILER FOR FRUIT	:
HARVESTING SYSTEM AND ASSOCIATED	:
METHODS	:

This is in response to the petition under 37 CFR 1.47(a), filed May 12, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Wan Laymon at (703) 306-5685.

This application is being forwarded to the Office of Initial Patent Examination for preexamination processing.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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EITAN ZEHAVI
12 ALONIM STREET
KIRIAT TIVON 36000
ISRAEL

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JUL 16 2003

OFFICE OF PETITIONS

In re Application of
Michael L. Suter and Eitan Zehavi
Application No. 10/317,834
Filed: December 12, 2002
For: FRUIT TRAILER FOR FRUIT HARVESTING SYSTEM AND ASSOCIATED METHODS

Dear Mr. Zehavi:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks
Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC:
ALLEN DYER DOPPELT MILBRATH & GILCHRIST P.A.
1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
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ORLANDO, FL 32802-3791

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Paper No. 4

TED R. RITTMASTER
FOLEY & LARDNER
2029 CENTURY PARK EAST
SUITE 3500
LOS ANGELES, CA 90067-3021

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MAR 2 0 2003

OFFICE OF PETITIONS

In re Application of :
Hsiang Lung Liu et al :
Application No. 10/317,862 : NOTICE
Filed: December 11, 2002 :
Attorney Docket No. 048747-0201 :

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 2871.

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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

MERCK AND CO INC
P O BOX 2000
RAHWAY, NJ 07065-0907

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MAY 2 2 2003

OFFICE OF PETITIONS

In re Application of
Bosch, et al.
Application No. 10/317,948
Filed: December 9, 2002
Attorney Docket No.: 21003Y

ON PETITION

This decision in response to the petition, filed March 31, 2003, to accord the above-identified application a filing date of December 9, 2002.

The application was filed December 9, 2002. The Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application ("Notice") January 28, 2003. The Notice stated the application had not been accorded a filing date as the application appeared to have been deposited without a specification in accordance with 35 USC 112.

Petitioner argues that the Notice should be withdrawn as the application was complete upon filing. Petitioner has included as proof of mailing and proof of receipt of the specification a return postcard date stamped by the Office on December 9, 2002 acknowledging, among other items, receipt of 45 pages of specification. Petitioner has also supplied a copy of the specification purportedly filed with the application on December 9, 2002.

The original specification submitted with the application papers has not been located. However, in view of the evidence presented, the petition to accord the application a filing date of December 9, 2002 is GRANTED.

The petition fee of $130.00 submitted with the instant petition is unnecessary. A refund from the Finance Office, Refund Section, has been requested on petitioner's behalf.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of December 9, 2002.

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Date Mailed : 03/19/07

Patent No. : 6975900 B2
Inventor : RUDY, YORAM
Patent Issued : 12/13/05
Docket No. : **CWO-007.01**

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 file of the application for the patent reveals that in Column 1, lines 34, 35 and 36 are printed in accordance with the record (no fee or authorization to charge fee). **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

In view of the foregoing, your request in this matter is hereby denied.

Lamonte M. Newsome
For Cecelia Newman, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVEVLAND OH 44114

Cbn/Lmn

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Date Mailed : 08/30/07

Patent No. : 6975900 B2
Inventor : RUDY, YORAM
Patent Issued : 12/13/05
Docket No. : **CWR-8338**

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 file of the application for the patent reveals that in Column 1, lines 34-36 are printed in accordance with the record (no fee or authorization to charge fee). **"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 Cecelia Newman, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVEVLAND OH 44114

Cbn/Lmn

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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PATENT LAW GROUP, LLP
2635 NORTH FIRST ST., SUITE 223
SAN JOSE, CA 95134

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JUN 14 2005

OFFICE OF PETITIONS

In re Application of :
Daniel A. Steigerwald et al :
Application No. 10/317,956 :
Filed: December 11, 2002 :
Attorney Docket No. LUM-M-9240 US :

ON PETITION

This is a decision on the petition filed, April 29, 2005 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed October 6, 2004, which set a shortened statutory period for reply of three (3) months. Three months extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 7, 2005.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on April 29, 2005.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matters is being referred to Technology Center AU 2811 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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MARSH, FISCHMANN & BREYFOGLE LLP
8055 East Tufts Avenue
Suite 450
Denver, CO 80237

Mail Date: 04/30/2010

Applicant	: Ian H. White	: DECISION ON REQUEST FOR
Patent Number	: 7611602	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/317,957	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/12/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1709** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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William S. Frommer, Esq.
FROMMER LAWRENCE & HAUG LLP
745 Fifth Avenue
New York, NY 10151

Mail Date: 04/21/2010

Applicant	: Atsuhiko Mimura	: DECISION ON REQUEST FOR
Patent Number	: 7596805	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/317,969	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/12/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1047** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11400 BURNET ROAD
AUSTIN, TX 78758

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APR 04 2007
OFFICE OF PETITIONS

In re Application of	:	
Benjamin B. Harmon, et al.	:	
Application No. 10/317,996	:	DECISION ON PETITION
Filed: December 12, 2002	:	
Attorney Docket No. AUS920020497US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 4, 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, September 22, 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 December 23, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 2157 for appropriate action by the Examiner in the normal course of business on the reply received

Irvin Dingle
Petitions Examiner
Office of Petitions

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Paper No. 3

Paul J. Skwierawski
ANTONELLI, TERRY, STOUT &
KRAUS, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209

MAILED
NOV 25 2003
Technology Center 2100

In re Application of:	)	
R. Webb	)	
Application No. 10/318,006	)	**DECISION ON REQUEST FOR**
Filed: December 31, 2002	)	**WITHDRAWAL AS ATTORNEY**
For: SYSTEM AND METHOD FOR INDICATING THE STATUS OF A COMMUNICATIONS LINK/TRAFFIC ACTIVITY ON NON-PROTOCOL AWARE MODULES	)	

This is a decision on the Request To Withdraw from Representation filed June 23, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed June 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

TM Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: c/oAnne Richards
SCHWEGMAN, LUNDBERT, WOESSNER &
KLUTH P.A.
1600 TCF Tower
121 S. 8th Street
Minneapolis, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

YOUNG & THOMPSON
745 SOUTH 23RD STREET 2ND FLOOR
ARLINGTON VA 22202

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MAY 18 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Risato Ohhira
Application No. 10/318,016
Filed: December 13, 2002
Attorney Docket No. 8013-1082

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 March 19, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 2873 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20071011

DATE : October 2, 2007

TO SPE OF : ART UNIT 1765

SUBJECT : Request for Certificate of Correction for Appl. No.: 10318021 Patent No.: 7052617B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

NADINE NORTON
SUPERVISORY PATENT EXAMINER

Nadine Norton
SPE

1765
Art Unit

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OFFICE OF PETITIONS

DAVIDSON BERQUIST JACKSON & GOWDEY LLP
4300 WILSON BLVD., 7TH FLOOR
ARLINGTON VA 22203

In re Application of	:	
GREEN, James D.	:	
Application No. 10/318,025	:	DECISION ON PETITION
Filed: December 13, 2002	:	TO WITHDRAW
Attorney Docket No. 2615-0029	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 16, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to DAVIDSON BERQUIST JACKSON & GOWDEY LLP has been revoked by the assignee of the patent application on March 12, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **KENYON & KENYON LLP**
ONE BROADWAY
NEW YORK, NY 10004

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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Date : March 20, 2007

Patent No. :6,920,907
Inventor(s) : Harold et al.
Issued :July 26, 2005
Title :APPARATUS FOR FORMING AGRICULTURAL DRIP TAPE
Docket No. :737-228

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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.

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Angel. Green

For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9380 Ext. 123

Michael J. Keenan
Nixon & Vanderhue PC
901 North Glebe Road, 11th Flr.
Arlington, VA 22201

CBN/arg

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

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SEP 26 2007

OFFICE OF PETITIONS

In re Patent No. 6,920,907	:	
Issue Date: July 26, 2005	:	
Application No. 10/318,028	:	ON PETITION
Filed: December 13, 2002	:	
Attorney Docket No. 737-228	:	

This is a decision in response to the communication filed April 16, 2007, which is being treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

Petitioner states that the correct assignee's name is Micro Irrigation Technologies, Inc. However, a review of the record show that at the time of payment of the issue fee, applicant included an incorrect assignee's name on the Fee(s) Transmittal form PTOL-85(b). Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

It is noted that while the request for a Certificate of Correction and the processing fee have been submitted, the fee required by 3.81(b) was not submitted. Therefore, the $100 fee for the Certificate of Correction is being charged to counsel's deposit account as authorized.

The petition is **GRANTED**.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

#2

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Paper No. 8

CROWELL & MORING, L.L.P.
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

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OFFICE OF PETITIONS

In re Application of
Li, Xu, Staszewski & Adler
Application No. 10/318,031
Filed: December 13, 2002
Attorney Docket No. 100337/54104US
For: CHIMERIC GALPHA 15 VARIANTS AND THEIR USE IN THE ANALYSIS AND DISCOVERY OF MODULATORS OF G-PROTEIN COUPLED RECEPTORS

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed July 23, 2003.

The petition is granted.

Petitioners have shown that the non-signing inventor, Jon Elliot Adler, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Robin L. Teskin and accompanying exhibits establish that the inventor's attorney, Marilynn Mika Spencer, was mailed the application papers, including the specification, claims and drawings and that Ms. Spencer wrote in a May 27, 2003 letter to Ms. Teskin that her client would not sign the attached declaration unless her client received additional compensation. 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JON ELLIOT ADLER
1099 TURQUOISE STREET
APARTMENT 15
SAN DIEGO CA 92122

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AUG 0 8 2003

OFFICE OF PETITIONS

In re Application of :
Li, Xu, Staszewski & Adler :
Application No. 10/318,031 :
Filed: December 13, 2002 :
Attorney Docket No. 100337/54104US : LETTER
For: CHIMERIC GALPHA 15 VARIANTS AND :
THEIR USE IN THE ANALYSIS AND :
DISCOVERY OF MODULATORS OF :
G-PROTEIN COUPLED RECEPTORS :

Dear Dr. Adler:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 308-6712.

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: CROWELL & MORING, L.L.P.
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

KENYON & KENYON
1500 K STREET, N.W., SUITE 700
WASHINGTON DC 20005

In re Application of
Hooper
Application No. 10/318,075
Filed: December 13, 2002
Attorney Docket No.: 12568/3

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(b)

This is a decision on the petition under 37 CFR 1.47(b), filed May 15, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor, Douglas L. Hooper, has refused to join in the filing of the above-identified application. Specifically, Exhibit 1 to Elizabeth P. Farkas's statement of facts, which is an Order to Show Cause signed by a superior court judge, establishes that the inventor filed a provisional application based on the work he did while employed by Zytec Corporation (Zytec) and that the inventor refused to provide the provisional application number and a copy of the application to Zytec so that Zytec could file a nonprovisional application within 12 months of the filing date of the provisional application. The judge found that Inventor Hooper refused to assist in the filing of the nonprovisional application. It is noted that the disclosure of the instant nonprovisional application is identical to the disclosure of the provisional application that Inventor Hooper was compelled to provide to Zytec. In addition, petitioner has shown that Zytec has a proprietary interest in the above-identified application with the copy of an assignment document. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the 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

FEB 0 3 2004

Image

1762

Practitioner's Docket No. 12568/3 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of	:	Douglas L. Hooper
Application No.	:	10/318,075
Filed	:	December 13, 2002
For	:	MATERIAL AND PROCESS FOR SELF-REGULATING TEMPERATURE, WICKABILITY, FLAME, BIOLOGICAL AGENT AND SOIL RESISTANT CONTROLLED YARN, SUBSTRATE OR FABRIC
Group No.	:	1762
Examiner	:	Unassigned

SEP 1 4 2004

Approved JMStone

Jacqueline M. Stone, Director
Technology Center 1700

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450
ATTENTION: Director, Group 1762

REQUEST FOR WITHDRAWAL AS ATTORNEY (37 C.F.R. § 10.40(c))

Sir:

REQUEST FOR PERMISSION TO WITHDRAW

1. I, an attorney signing below, on behalf of myself and the other attorneys currently of record, respectfully request permission to withdraw from all further responsibility in this case, in accordance with 37 C.F.R. §1.36.

LAST KNOWN ADDRESS OF CLIENT

2 The last know mailing address of the client, which is the assignee of the entire interest of this application, is:

Zytec Corporation
32 Baruch Drive
Long Branch, NJ 07746

BASIS FOR WITHDRAWAL REQUEST

3. The basis for the request for withdrawal is 37 C.F.R. 10.40(c)(1)(vi).

The attorney signing below ("Petitioner") respectfully submits that the Petitioner's client, Zytec Corporation ("Zytec"), the assignee of the entire interest of this application, has failed to pay bills rendered by the Petitioner's law firm for an unreasonable period of time. Attached as Exhibit A is a listing of the bills issued by Petitioner's law firm to Zytec. As shown in that Exhibit A, Petitioner's law firm has issued ten bills to Zytec, the first being issued October 21, 2002. The total fees and disbursements due to Petitioner's law firm by Zytec for this and other matters amounts to $6,965.85. Copies of the bills are attached as Exhibit B.

Despite repeated attempts by Petitioner's law firm to obtain payment, Zytec has failed to pay these bills.

For example, on September 9, 2003, Petitioner's law firm wrote the letter attached as Exhibit C to Zytec, requesting payment.

Despite this and other attempts to collect payment, Zytec has failed to pay the bills for services rendered, both for this application and other matters. Accordingly, Petitioner respectfully requests permission for the attorneys currently of record to withdraw from representation of Zytec in this application.

There is no outstanding Office Action. This case is awaiting action by the PTO.

NOTIFICATION OF CLIENT

4. In accordance with 37 C.F.R. §10.40(a), a copy of this request, including attachments, is being sent to the client.

A copy of the letter to the client is attached.

NUMBER OF COPIES OF REQUEST

5. This request is enclosed in triplicate.

SIGNATURE(S) OF WITHDRAWING ATTORNEY(S) (PRACTITIONER(S))

6. On behalf of all attorneys currently of record in this application:

Respectfully submitted,
KENYON & KENYON

Dated: Feb 3, 2004

By: Douglas E. Ringel
Reg. No. 34,416

KENYON & KENYON
1500 K Street, N.W., Suite 700
Washington, D.C. 20005-1257
202-220-4200 (phone)
202-220-4201 (facsimile)

DC01 482743 v 1

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MCGLEW & TUTTLE, PC
1 SCARBOROUGH STATION PLAZA
SCARBOROUGH, NY 10510-0827

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OFFICE OF PETITIONS

In re Application of :
Akihide Isoda, et al. :
Application No. 10/318,119 : ON PETITION
Filed: December 12, 2002 :
Attorney Docket No. 70773 :

This is a decision on the petition, filed January 12, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1756 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: " Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Commissioner for Patents
United States Patent and Trademark Office
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Date : January 24, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Akihide Isoda, et al.
Application No. : 10/318,119
Filed : December 12, 2002

The above-identified application has been assigned Patent No. 6,849,368 and an issue date of February 1, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of February 1, 2005:

> "All reference to Patent No. 6,849,368 to AKIHIDE ISODA, ET AL.of JAPAN for CHARGE CONTROL RESIN PARTICLES AND TONER FOR DEVELOPING ELECTROSTATIC IMAGES appearing in the Official Gazette of February 1, 2005, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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RABIN & BERDO, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

NOTICE

In re Patent No. 6,854,758 :
Issue Date: February 15, 2005 :
Application No. 10/318,123 :
Filed: December 13, 2002 :
Patentee: Hung-Chung Hou, et al.

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.

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 Steven M. Rabin appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

Petitioner is reminded that a "fee address" and/or "customer number" form should be submitted to the Maintenance Fee Division, if petitioner desires to receive any correspondence which may be mailed regarding maintenance fees for the above-identified patent.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3201.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Paper No. 6

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON DC 20036

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OFFICE OF PETITIONS

In re Application of
Yoshihide Hayashizaki, et al.
Application No. 10/318,124
Filed: December 13, 2002
Attorney Docket No. NOG-9003/DIV

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 16, 2004, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to submit an oath or declaration in a timely manner in reply to the Notice To File Missing Parts of NonProvisional Application mailed February 14, 2003, set a shortened statutory period for reply of two(2) months. Accordingly, the application became abandoned on April 15, 2003.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111.

The application file is being forwarded to Office of Initial Patent Examination for further processing.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of	:
Hayashizaki, et al.	: DECISION ON APPLICATION
Application No. 10/318,124	: FOR PATENT TERM ADJUSTMENT
Filed: December 13, 2002	:
Atty. Dkt. No.: NOG-9003/DIV	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed October 3, 2006.

The application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED**.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed July 25, 2006, indicated a patent term adjustment (PTA) to date of 118 days. The issue fee payment was timely received October 24, 2006. Applicants argue that the correct adjustment is 543 days.

The correct PTA at the time of the allowance is in fact 87 days.

A review of the application history reveals that as of the time of allowance, an adjustment of 581 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1) and 37 CFR 1.703(a)(2). Applicants have not contested this adjustment.

The adjustment of 581 days is properly reduced 456 days, and not 425 days as previously calculated, in accordance with 37 CFR 1.704(c)(3) in connection with the petition to revive under 37 CFR 1.137(b) and the reply to the Notice to File Missing Parts filed June 16, 2004. The reduction began April 14, 2003, the date of abandonment, and ended July 12, 2004, the date that the petition to revive was granted. *See*, 37 CFR 1.704(c)(3)(i).

Applicants argue that any reduction in connection with applicants' reply to the Notice to File Missing Parts is in error, and, further, argue that a reply to the Notice to File Missing Parts was timely filed March 18, 2003. Applicants have included a postcard receipt as evidence of timely submission of a reply to the Notice to File Missing Parts.

Applicants' arguments and evidence have been carefully considered, but found unconvincing. The Notice to File Missing Parts, mailed February 14, 2003, required applicants to submit, within two months, an oath or declaration and surcharge. Absent submission of a complete and proper reply, Notice of Abandonment was mailed June 7, 2004.

Applicants argue that a reply to the Notice to File Missing Parts was timely submitted March 18, 2003. A review of the reply submitted March 18, 2003 reveals a three page reply (transmittal letter, copy of Notice to File Missing Parts, and a one paragraph letter which states in pertinent part that "it is respectfully submitted that an oath or declaration need not be filed in this application. The Notice indicates that the above-identified application is missing an executed oath or declaration. However, the present application is a divisional application, which properly claims priority to parent application 09/426,760. The oath or declaration from the parent application also corresponds to the present application.")

The reply submitted March 18, 2003 did not include a copy of the declaration for U.S. App. No. 09/426,760. Accordingly, applicants failed to comply with 37 CFR 1.63(d)(1)(iv).

As to the return postcard, while a postcard receipt that itemizes and properly identifies the items that are being filed may serve as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO, applicants postcard is not sufficiently itemized to support a conclusion that an oath or declaration accompanied the March 18, 2003 submission. Specifically, the postcard fails to set forth that an oath or declaration was submitted as part of the reply of March 18, 2003. Accordingly, the return postcard does not serve as prima facie evidence of a timely submitted proper reply to the Notice to File Missing Parts.

Furthermore, a Notice of Abandonment was mailed June 7, 2004. There is no indication that applicants submitted a petition to withdraw the holding of abandonment pursuant to 37 CFR 1.181. Applicants instead submitted a petition to revive under 37 CFR 1.137(b) on June 16, 2004, effectively acquiescing to the holding of abandonment. The decision reviving the application was mailed July 12, 2004.

Contrary to applicants' contention that the Notice of Abandonment was withdrawn on July 26, 2004, applicants are advised that the Notice of Abandonment was not withdrawn, nor was the holding of abandonment vacated. Instead, the application was revived upon

careful consideration of applicants' petition to revive under 37 CFR 1.137(b) on July 12, 2004.

The adjustment of 581 days is further reduced 38 days, as uncontested by applicants (the adjustment was reduced 22 days in accordance with 37 CFR 1.704(b) in connection with the response to the non-final Office action submitted June 19, 2006 and 16 days in accordance with 37 CFR 1.704(c)(8) in connection with the supplemental reply to the non-final Office action submitted July 5, 2006).

In view thereof, at the time of allowance, the application was entitled to an adjustment of 87 days.

Applicants are further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The required Patent Term Adjustment application fee of $200.00 has been charged to applicants' deposit account.

This application is being forwarded to the Office of Patent Publication for further processing.

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

Day : Monday
Date: 2/26/2007

PALM INTRANET

Time: 10:21:13

PTA Calculations for Application: 10/318124

Application Filing Date:	12/13/2002	PTO Delay (PTO):	581
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	463
Post-Issue Petitions:	0	Total PTA (days):	87
PTO Delay Adjustment:	-31		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
46	02/26/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		456	
45	02/26/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	425		
38	07/25/2006	MAIL NOTICE OF ALLOWANCE			
37	07/21/2006	ISSUE REVISION COMPLETED			
36	07/21/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
35	07/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
34	07/18/2006	NOTICE OF ALLOWABILITY			
33	07/13/2006	DATE FORWARDED TO EXAMINER			
32	07/05/2006	RESPONSE AFTER NON-FINAL ACTION		16	29
31	06/29/2006	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
30	06/27/2006	DATE FORWARDED TO EXAMINER			
29.1	06/19/2006	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
29	06/19/2006	RESPONSE AFTER NON-FINAL ACTION		22	27
28	06/19/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
27	02/28/2006	MAIL NON-FINAL REJECTION			
26	02/22/2006	NON-FINAL REJECTION			
25	12/19/2005	DATE FORWARDED TO EXAMINER			
24	12/12/2005	RESPONSE AFTER NON-FINAL ACTION			
23	09/16/2005	MAIL NON-FINAL REJECTION	581		-1
22	09/14/2005	NON-FINAL REJECTION			
21	12/13/2002	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	08/25/2005	CASE DOCKETED TO EXAMINER IN GAU			

19	03/30/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
18	12/13/2002	REFERENCE CAPTURE ON IDS			
17	12/13/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	12/13/2002	PRELIMINARY AMENDMENT			
15	08/12/2004	CASE DOCKETED TO EXAMINER IN GAU			
14	07/25/2004	APPLICATION DISPATCHED FROM OIPE			
13	07/26/2004	APPLICATION IS NOW COMPLETE			
12	07/12/2004	ADDITIONAL APPLICATION FILING FEES		425	4
11	07/12/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
10	06/07/2004	WITHDRAW PRE-EXAM ABANDON			
9	07/12/2004	PETITION TO REVIVE APPLICATION - GRANTED			
8	06/16/2004	PETITION ENTERED			
7	06/16/2004	WORKFLOW INCOMING AMENDMENT IFW			
6	06/16/2004	WORKFLOW INCOMING PETITION IFW			
5	04/15/2003	ABANDONMENT -- DURING PREEXAM PROCESSING			
4	02/14/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
2	12/18/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/13/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Norbert E. Yankielun :
Application No. 10/318,129 :
Filed: December 13, 2002 :
Attorney Docket No. COE-555 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 16, 2004, to revive the above-identified application.

The petition is **GRANTED**.

A review of the record discloses that on March 20, 2003, a Notice to File Corrected Application Papers (Notice) was mailed, setting a two (2) month period for reply. The Notice required replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121. Since no response was filed, the application became abandoned after midnight May 20, 2003. A Notice of Abandonment was mailed on June 21, 2004.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The application is being returned to the Office of Initial Patent Examination (OIPE) for further review of the replacement drawings provided on July 16, 2004.

Telephone inquires related to this decision should be directed to the undersigned at (703) 305-9220. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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SEP 17 2004

OFFICE OF THE DIRECTOR
TC 3600

Evelyn H. McConathy, Esquire
Dilworth Paxson LLP
3200 Mellon Bank Center
1735 Market Steet
Philadelphia, PA 19103

In re application of	:	**DECISION ON PETITION**
David Haitin et al.	:	**TO MAKE SPECIAL**
Application No. 10/318,139	:	**(ACCELERATED**
Filed: December 12, 2002	:	**EXAMINATION)**
For: MEDICATION ADMINISTRATION SYSTEM	:	

This is in response to the petition filed on December 12, 2002 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED.**

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/vdb: 6/17/04

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OFFICE OF PETITIONS

In re Application of
Ulla Forsgren Brusk et al.
Application No. 10/318,165
Filed: December 13, 2002
Attorney Docket No. 018798-106

ON PETITION

This is a decision on the petition filed March 12, 2010, under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**.

This application became abandoned February 19, 2009 for failure to file a timely response to the non-Final Office Action mailed November 18, 2008. Accordingly, the Notice of Abandonment was mailed on August 12, 2009.

Petitioner claims that neither the non-Final Office Action mailed November 18, 2008 nor the Notice of Abandonment mailed August 12, 2009 were received in that they were both mailed to an incorrect address. Petitioner argues further that the instant application has been associated with an incorrect customer number. In support of the arguments presented, petitioner provides copies of a NOTICE REGARDING CHANGE OF POWER OF ATTORNEY and NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY mailed November 6, 2008, sent in response to the Power of Attorney filed November 4, 2008. Petitioners argue that no such Power of Attorney was filed by the attorney of record and thus the customer number should not have been changed.

A review of the file confirms that the USPTO official record does not in fact reveal that a power of attorney and address change was filed in this matter on November 4, 2008 and thus the change to the Attorneys and Correspondence Address was inadvertent.

The non-Final Office Action was mailed to the wrong address and as petitioners claim, not received. In view of the above, no petition fees are due and none have been charged.

The Notice of Abandonment is withdrawn and this matter is being referred to Technology Center 1612 for appropriate treatment of the amendment filed March 12, 2010.

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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MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of :
Hiroshi Nakamura et al :
Application No. 10/318,167 : ON PETITION
Filed: December 13, 2002 :
Attorney Docket No. 231535US2S :

This is a decision on the petition under 37 CFR 1.313 (c)(2), filed July 11, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 27, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2824 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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1940 DUKE STREET
ALEXANDRIA, VA 22314

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MAY 20 2009

OFFICE OF PETITIONS

In re Patent No. 7,378,186 :
Issue Date: May 27, 2008 :
Application No. 10/318,177 : ON PETITION
Filed: December 13, 2002 :
Attorney Docket No. 231447US0DIV :

This is a decision on the petition under 37 CFR 1.182, filed April 8, 2009, 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 duplicate Letters Patent.

A copy of this decision is being forwarded to the Office of Data Management for issuance of the duplicate Letters Patent.

This patent file is being referred to the Files Repository.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226. Any questions concerning issuance of the duplicate Letters Patent should be directed to Niomi Farmer at (703) 308-9250 ext 119.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, P/OPPD, South Tower 8th Floor, Room C23
FAX No. (571) 270-9753

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SUITE 200 GENERATION PLAZA
1822 N.C. HIGHWAY 54 EAST
DURHAM, NC 27713

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OFFICE OF PETITIONS

In re Application of
OHGO
Application No. 10/318,184
Filed: December 13, 2002
Attorney Docket No. 25254

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed October 16, 2006.

The request is **NOT APPROVED**.

A review of the file record indicates that A. Jose Cortina of DANIELS DANIELS & VERDONIK PA does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **NATH & ASSOCIATES**
112 SOUTH WEST STREET
ALEXANDRIA, VA 22314

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ATTN: PATENT GROUP
THE BOWEN BUILDING
875 15TH STREET, N.W. SUITE 800
WASHINGTON, DC 20005-2221

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In re Application of	:	
HORWITZ, et al.	:	
Application No. 10/318,190	:	DECISION ON PETITION
Filed: December 13, 2002	:	TO WITHDRAW
Attorney Docket No. SAMS001/01US	:	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 29, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Christopher R. Hutter and all attorneys associated with customer number 22903 have been revoked by the assignee of the patent application on August 31, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Wei Wei Jeang
Haynes & Boone LLP
2505 N. Plano Road, Suite 400
Richardson, TX 75082

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901 MAIN STREET, SUITE 3100
DALLAS, TX 75202

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AUG 27 2007

OFFICE OF PETITIONS

In re Application of :

HORWITZ, et al. :
Application No. 10/318,190 : DECISION ON PETITION
Filed: December 13, 2002 : TO WITHDRAW
Attorney Docket No. **22465-0013002** : 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 29, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to **HAYNES & BOONE LLP** has been revoked by the assignee of the patent application on June 14, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **FISH & RICHARDSON PC**
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LINDA HORNER
United States Patent and Trademark Office
600 Dulany Street
Alexandria, VA 22314

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NOV 13 2006

OFFICE OF PETITIONS

In re Application of	:	
SORRELLS, et al.	:	
Application No. 10/318,207	:	DECISION ON PETITION
Filed: December 13, 2002	:	TO WITHDRAW
Attorney Docket No. 1744.0880005	:	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 16, 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 Linda E. Horner. Linda E. Horner has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is no outstanding Office action that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

DATE: _____ APPLICATION NUMBER: _____

DOC CODE: _____ DOC DATE: _____

DELIVER THE ATTACHED FILE/DOCUMENT TO THE TC SCANNIG CENETER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN 8 WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN 16 WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/1/07

Paper No.: ____

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction on Patent No.: 7224749

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:

All foreign patent documents and non-patent literature publications were not considered and should not be cited with the exception of DE 196 48 915 A1 (and translation), and Simoni et at. "A single Chip Optical Sensor with Analog Memory for Motion Detection".

M. G.
SPE

2611
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/1/07

Paper No.: ____

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction on Patent No.: 7224749

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Valerie Jackson

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Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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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:

All foreign patent documents and non-patent literature publications were not considered and should not be cited with the exception of DE 196 48 915 A1 (and translation), and Simoni et at. "A Single Chip Optical Sensor with Analog Memory for Motion Detection".

M. G.
SPE

2611
Art Unit

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DIW 10-04

OGILVY RENAULT (PWC)
1981 MCGILL COLLEGE AVENUE
SUITE 1600
MONTREAL QC H3A 2Y3

CANADA

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OCT 25 2004

OFFICE OF PETITIONS

In re Application of :
Mitrovic et al. :
Application No. 10/318,220 :
Filed: 12 December, 2002 :
Atty Docket No. 2993-445US RM/JR/EC :

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed on 16 September, 2004, to change the order of the names of the inventors.

The petition is **granted**.

The order of the names of the inventors will be changed as follows:

1. Lazar Mitrovic
2. Martin Poulin
3. Alain Lewis
4. Robert Gautier

A corrected Filing Receipt is enclosed for petitioners' records.

The petition fee of $130.00 will be charged to counsel's deposit account, No. 19-5113, as authorized in the present petition.

This application is being forwarded to Publishing Division to await receipt of the issue fee.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 308-6918.

DWood

Douglas I. Wood
Petitions Attorney
Office of Petitions

Encl: Corrected Filing Receipt

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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NOV 23 2005

Gregory C. Beck
Foley & Lardner, LLP
Suite 500
300 K Street NW
Washington DC 20007

In re Application of: Logiudice et al. :
Appl. No.:10/318242 : DECISION ON PETITION
Filed: December 13, 2002 :
For: BAKEWARE AND HANDLE :

This is a decision on the petition filed on February 25, 2005 by which petitioner requests acceptance of a response to requirement for election due to non-receipt of Office action. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

It appears from the petition that the Office letter in question, mailed December 17, 2004 was never received by petitioner. This conclusion is reached based upon the evidentiary showing that accompanies the petition, which is persuasive that the Office letter in question was not received. In general, compare the requirements of the Notice published at 1156 OG 53 with respect to nonreceipt of Office correspondence.

Accordingly, it appears that petitioner is entitled to have the Office letter dated December 17, 2004 remailed. However, petitioner has also included a response to the December 17, 2004. Therefore, physical remailing of the Office letter in question is not necessary, and the response filed on February 25, 2005 will be accepted as timely filed.

The application is being forwarded to the Head Supervisory Applications Examiner in Technology Center 3700 to have an entry in the PALM system made to show that the paper of December 17, 2004 has been remailed as of January 25, 2005. The response filed on February 25, 2005 will thereafter be entered in the application file as a timely response, and the application will be forwarded to the examiner for action on the application.

PETITION GRANTED

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 25, 2006

TO SPE OF : ART UNIT 2133

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/318250 patent No.: 7,020,831

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: _____

JACQUES LOUIS-JACQUES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100
SPE

2112
Art Unit

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OFFICE OF PETITIONS

RABIN & BERDO, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON, DC 20005

In re Patent No. 6,746,075	:	
Issue Date: June 8, 2004	:	
Application No. 10/318,252	:	NOTICE
Filed: December 13, 2002	:	
Attorney Docket No. 3313-0854P		

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON DC 20006

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OCT 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Kong, Nam Young	:	
Application No. 10/318,266	:	DECISION GRANTING PETITION
Filed: December 13, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 8734.130.00-US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 17, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 4, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances M. 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 Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

REED & EBERLE LLP
800 MENLO AVENUE, SUITE 210
MENLO PARK CA 94025

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APR 27 2004
OFFICE OF PETITIONS

In re Application of
Rothbard et al.
Application No. 10/318,278
Filed: December 11, 2002
For: GUANIDINIUM TRANSPORT REAGENTS AND CONJUGATES
Attorney Docket No: 8400-0012
Pub. No.: US 2003/0185788 A1
Pub. Date: October 2, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on November 24, 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 mistakes that are not the fault of the Office, which will not be corrected by a corrected publication by the Office.

The errors labeled Nos. 2-5 will be corrected as requested.

---

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

The error mentioned below will not be corrected as requested by applicant.

With respect to the error labeled No. 1, in the chemical formula IIi, the "⊕" will be moved over to "NH_2", but the "NH_2" will not be changed to "NH_3" as requested by applicant.

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:	
McAllister et al.	:	
Patent Number: 7,504,258	:	
Issue Date: 03/17/2009	:	
Application No. 10/318285	:	
Filing or 371(c) Date: 12/11/2002	:	ON REQUEST FOR
Attorney Docket Number:	:	RECONSIDERATION OF
11282-0003001	:	PATENT TERM ADJUSTMENT

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d), filed May 18, 2009. Patentees request reconsideration of the final patent term adjustment to increase the total patent term adjustment to 1505 days, not 992 days as indicated on the patent. Patentees' request this correction solely on the basis that the Office took in excess of three years to issue this patent.

The Application for Patent Term Adjustment ("PTA") under 37 CFR 1.705(d), is **DISMISSED**.

On March 17, 2009, the above-identified application matured into U.S. Patent No. 7,504,258, with a patent term adjustment of 992 days. This application for patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request that the PTO apply the statutory interpretation set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that according to Wyeth, the correct reading of 35 U.S.C. § 154(b)(1)(B) is that the number of days delay in issuance of the patent is counted from the day after the 3-years from the filing date of the application on which the patent is granted. Furthermore, Patentees provide, the correct reading of 35 U.S.C. § 154(b)(2)(A) "is that periods of delay attributable to the PTO under 35 U.S.C. § 154(b)(1)(A) (that occur *prior* to the three (3) years elapsing from the applications filing date) do not overlap with the period under 35 U.S.C. § 154(b)(1)(B) (which is measured from three (3) years *after* the

applications filing date.)" Request for Reconsideration at pp. 2-3. Patentees assert that the PTA accruing to Patentees under 35 U.S.C. § 154(b)(1)(A)(i) comprises a total of 513 days, and the PTA accruing to Patentees under 35 U.S.C. § 154(b)(1)(B) is 1192 days. Accordingly, Patentees aver that the PTO delay in granting the present patent is 1705 days. Patentees do not contest Applicant delay in connection with the present patent of 200 days. Accordingly, Patentees aver that the total PTA is 1505 days (513 days + 1192 days – 200 days).

The 1192-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on December 11, 2002, and issuing on March 17, 2009, three (3) years and 1192 days later. Patentees assert that in addition to this 1192-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) totalling 513 days. This 513-day period is the result of a period of delay of 513 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1).

It is noted that an additional period of examination delay of four (4) days was accorded to Applicants as a result of the failure by the Office to respond to a reply under 35 U.S.C. 132 not later than four months after the date on which the reply was filed, pursuant to 37 CFR 1.702(a)(2). A Notice of Allowance was mailed November 3, 2008, four months and four (4) days after the response to the non-final Office action was filed on June 30, 2008. Thus, the total period of examination delay is 517 days.

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office agrees that as of the issuance of the patent on March 17, 2009, the application was pending three years and 1192 days after its filing date. The Office agrees that certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 517 days is correct. At issue is whether patentees should accrue 1192 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 517 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 517 days of examination delay under 37 CFR 1.702(a) overlaps with the period of 1192 days of delay in issuing the patent. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A),* 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(1)(A) is the entire period during which the application was pending before the Office, December 11, 2002, to the date the patent issued on March 17, 2009. Prior to the issuance of the patent, 517 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 517 days of Office examination delay overlap with the 1192 days for Office delay in issuing the patent. During that time, the issuance of the patent was delayed by 1192 days, not 1192 days + 517 days. The Office took 14 months and 513 days to issue a first Office action, and four months and four (4) days to respond to a reply under 35 U.S.C. 132. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed timeframes. Nonetheless, given the 517 days of Office examination delay and the time allowed within the time frames for processing and examination, the application issued three years and 1192 days after its filing date. However, the Office did not delay 1192 days and also delay an additional 517 days. Accordingly, 1192 days of patent term adjustment was properly entered because the period of delay of 517 days attributable to grounds specified in § 1.702(a) overlaps with the adjustment of 1192 days attributable to the delay in the issuance of the patent . Entry of both periods is not warranted.

---

[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

In view thereof, no adjustment to the patent term will be made.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Todd N. McAllister	: DECISION ON REQUEST FOR
Patent Number	: 7504258	: RECALCULATION of PATENT
Issue Date	: 03/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/318,285	: OF WYETH
Filed	: 12/11/2002	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper 7

JENS E. HOEKENDIJK
HOEKENDIJK & LYNCH, LLP
P.O. Box 4787
Burlingame CA 94011-4787

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MAY 2 1 2004

OFFICE OF PETITIONS

In re Application of
Wang et al.
Application No.10/318,293
Filed: December 12, 2002
Attorney Docket No. 003-008-C1
Title of Invention: CARDIAC ABLATION SYSTEM AND METHOD FOR TREATMENT OF CARDIAC ARRHYTHMIAS AND TRANSMYOCARDIAL REVASCULARZATION

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed May 10, 2004, to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice to file Missing Parts of a Nonprovisional Application which was mailed on January 24, 2003. The Notice to File Missing Parts set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on March 25, 2003. A Notice of Abandonment was mailed on February 4, 2004.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The Office acknowledges receipt of the $385 filing fee and the $65 surcharge for late filing of a fee or declaration and the substitute specification.

This application is being forwarded to the Office of Initial Patent Examination for further processing of the application.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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MAILED FROM DIRECTORS OFFICE

MAY 1 1 2008

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05052006

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

In re Application of:
Norikazu NIIMI
Serial No.: 10/318,307
Filed: December 13, 2002
Attorney Docket No. 114491

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.181, filed August 31, 2004, to re-mail the Notice of Allowance and Fee(s) Due of June 8, 2004.

The petition is GRANTED.

A Notice of Allowance and Fee(s) Due (Notice of Allowance) was mailed June 8, 2004, setting a three-month statutory period for paying the issue fee and the publication fee.

Petitioner asserts that the Notice of Allowance mailed on June 8, 2004 was not received. To support this assertion, petitioner states that a routine status check on PAIR shows that the Notice of Allowance was returned to the US Patent and Trademark Office (USPTO) on June 18, 2004.

Further, petitioner asserts that he was unaware of the Notice of Allowance until August 25, 2004 and did not docket the Notice of Allowance until August 27, 2004. A copy of the Notice of Allowance showing a received date at Oliff and Berridge of August 27, 2004 was submitted to show late receipt thereof.

A review of the written record indicates that the Notice of Allowance was returned undelivered by the US Postal Service on June 18, 2004. The record does not indicate that the Notice of Allowance was re-mailed pursuant to MPEP 707.13.

For the above stated reasons, the Notice of Allowance will be re-mailed and period to pay the requisite fees will be reset to run three months from the date it is re-mailed. No extension of time is available under 37 CFR 1.136(a).

The delay in re-mailing the Notice of Allowance and any inconvenience it may have caused the petitioner is regretted.

Any inquiry regarding this decision should be directed to Jose' G. Dees, Special Program Examiner, at (571) 272-1569.

Janice A. Falcone, Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK NY 10112-4498

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OFFICE OF PETITIONS

In re Patent No. 6,827,185 :
Issued: 12/07/2004 :
Application No. 10/318,311 : NOTICE
Filed: 12/12/2002 :
Attorney Docket No. A35292 - 072841.0170 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed July 9, 2008.

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.

The amount of $465.00 will be charged to the Deposit Account as requested.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SCHEEF AND STONE LLP
500 N. Akard St., Ste. 2700
DALLAS, TX 75225

MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Jan Chipchase	:	
Application No. 10/318,317	:	DECISION ON PETITION
Filed: December 12, 2002	:	TO WITHDRAW
Attorney Docket No. NC1887 9022.005	:	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 9, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney SCHEEF AND STONE LLP has been revoked by the assignee of the patent application on July 5, 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: BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

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DORITY & MANNING, P.A.
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GREENVILLE SC 29602-1449

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OFFICE OF PETITIONS

In re Patent No. 6,886,869	:	
Issued: 3 May, 2005	:	
Application No. 10/318,328	:	ON PETITION
Filed: 12 December, 2002	:	
Atty Docket No. CXP-2	:	

This is a decision on the petition filed on 22 August, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

It is noted that petitioner submitted $400.00 with the present petition. However, only a processing fee of $130.00 and certificate of correction fee of $100.00 are due. The balance will be credited to counsel's deposit account, No. 04-1403.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[1] See Official Gazette of 22 June, 2004.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/30/08

Paper No.: —

TO SPE OF : ART UNIT 3617

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/318339 Patent No: 7163354 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: Grammatical changes to specification
No changes to the claims

SPE — 3671 Art Unit

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OFFICE OF PETITIONS

LOWE HAUPTMAN GILMAN & BERNER LLP
1700 DIAGNOSTIC ROAD, SUITE 300
ALEXANDRIA, VA 22314

In re Application of
Stephanie Paquelet
Application No. 10/318,363
Filed: December 13, 2002
Attorney Docket No. 4590-025

DECISION ON PETITION UNDER
37 CFR 1.313(c)(3)

This is a decision on the petition, filed August 13, 2004, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

The petition to withdraw from issue is accompanied by a letter of express abandonment. However, the express abandonment is not signed by an attorney of record.

37 CFR 1.33(b) states:

> "*Amendments and other papers.* Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
>
> (1) A registered 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."

37 CFR 1.138(b) states:

> "A written declaration of abandonment must be signed by a party authorized under § 1.33(b)(1), (b)(3), or (b)(4) to sign a paper in the application, except as otherwise provided in this paragraph. A registered attorney or agent, not of record, who acts in a representative capacity under the provisions of § 1.34(a) when filing a continuing application, may expressly abandon the prior application as of the filing date granted to the continuing application."

37 CFR 1.138(b) expressly excludes, under 37 CFR 1.33(b)(2), a registered attorney or agent not of record who acts in a representative capacity under 37 CFR 1.34(a) from signing a letter of express abandonment, except as provided for *supra*.

Therefore, for the reason stated above, the petition under 37 CFR 1.313(c)(3) cannot be granted until such time as a letter of express abandonment is signed by an attorney of record, along with a renewed petition under 37 CFR 1.313(c)(3). Petitioner is reminded that an express abandonment and petition to withdraw from issue may not be recognized or effective if not received by the appropriate officials in time to act prior to issuance.

The petition also requests a refund under 37 CFR 1.26(a) in the amount of $1,660 ($1,330 for the issue fee; $300 for the publication fee; and $30 for the advance order copies) and that these fees be refunded to a credit card.

Petitioner's attention is directed to MPEP §1308.01 which states that a refund may be requested **if the examiner has withdrawn the application from issue for the purpose of reopening prosecution**. However, in the instant application, the examiner has not reopened prosecution of the application, but such withdrawal from issue was effected at the request of applicant. Also, note 37 CFR 1.26 which states:

> The Director may refund any fee paid by 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 an oral hearing, will not entitle a party to a refund of such fee.

The payment of the issue fee was owed and required by law at the time of payment thereof. Therefore, payment was not made by mistake or in excess of that required nor was there a mistake in payment as contemplated by 37 CFR 1.26. As to the publication fee, this fee is required for the publication of the application, which was in fact published on October 23, 2003. This fee, likewise, is not refundable. However, as the application will not issue and such fee is not required by law, the $30 fee submitted for advance copies of the patent will be refunded to petitioner's credit card, as requested.

As noted above, petitioner herein is not an attorney of record. Therefore, if petitioner herein desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to petitioner herein. However, until a proper power of attorney is received, all future correspondence regarding this application will be mailed solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:
U.S. Patent and Trademark Office
220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (703) 305-8680. Effective September 27, 2004, the phone number will be 571-272-3218.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Michael E. Monaco
Oblon Spivak McClelland
Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

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MAR 24 2004

STEPHEN B. MAEBIUS
FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:
David M. Goldenberg	:
Serial No.: 10/318,366	: WITHDRAWAL OF ATTORNEY
Filed: December 13, 2002	:
Attorney Docket No.: 018733-1170	:

This is in response to applicants' attorneys' request, filed February 26, 2004, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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JUN - 2 2005

HELLER EHRMAN WHITE & MCAULIFFE LLP
1717 RHODE ISLAND AVE, NW
WASHINGTON DC 20036-3001

In re Application of	:
David M. Goldenberg	: PETITION TO MAKE SPECIAL
Serial No.: 10/318,366	:
Filed: December 13, 2002	:
Attorney Docket No.: 40923-0047	

This is in response to the petition filed March 6, 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, 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, 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

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OFFICE OF PETITIONS

In re Application of	:	
Stefano M. Faccin, et al.	:	
Application No. 10/318,391	:	DECISION ON PETITION
Filed: December 13, 2002	:	TO WITHDRAW
Attorney Docket No. 061602-5075	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed July 10, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Foley & Lardner, LLP has been revoked by the assignee of the patent application on August 14, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: CONNOLLY BOVE LODGE & HUTZ, LLP
1990 M STREET NW
SUITE 800
WASHINGTON, DC 20036-3425

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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

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JUL 0 3 2006
OFFICE OF PETITIONS

In re Application of :
Sang-Cheol Kim et al :
Application No. 10/318,398 : ON PETITION
Filed: December 13, 2002 :
Attorney Docket No. 6161.0049RE

This is a decision on the petition filed, June 30, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 2, 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 2674 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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COMMISSIONER FOR PATENTS
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mailed 29 Feb 2004

STEPHEN B. MAEBIUS
FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:
Gary L. Griffiths et al	:
Serial No.: 10/318,401	: WITHDRAWAL OF ATTORNEY
Filed: December 13, 2002	:
Attorney Docket No.: 018733-1132	:

This is in response to applicants' attorneys' request, filed February 26, 2004, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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OFFICE OF PETITIONS

DYKEMA GOSSETT PLLC
FRANKLIN SQUARE, THIRD FLOOR WEST
1300 I STREET, NW
WASHINGTON, DC 20005

In re Application of Fontana, et al. Application No. 10/318,403 Filed: December 13, 2002 Atty. Dkt. No.: 66309-164 For: WATER SOFTENER	DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a) MOOT

This is in response to the renewed petition under 37 CFR 1.47(a), filed June 9, 2003.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

DYKEMA GOSSETT PLLC
FRANKLIN SQUARE, THIRD FLOOR WEST
1300 I STREET, NW
WASHINGTON, DC 20005

In re Application of
Fontana, et al.
Application No. 10/318,403
Filed: December 13, 2002
Atty. Dkt. No.: 66309-164-2
For: WATER SOFTENER

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

Reply Due - June 7, 2003

This is in response to the petition under 37 CFR 1.47(b), filed February 11, 2003. This petition is being addressed under 37 CFR 1.47(a) as petitioner alleges the availability of at least one inventor named in the application.

The petition under 37 CFR 1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed December 13, 2002 without an executed oath or declaration and naming Giuseppe Fontana and Franco Stocchiero as joint inventors. Accordingly, on January 28, 2003, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring, among other items, an executed oath or declaration and a surcharge.

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 USC 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition lacks requirements (1) and (2) stated above.

As to item (1), petitioner has failed to establish that the inventor received the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the oath or declaration.

Petitioner states a letter entitled "Invitation to Perform" was mailed to the inventor at the inventor's last known address. Petitioner states the letter included a declaration, power of attorney, and assignment documents. Petitioner states that to date, the inventor has not executed the declaration or assignment.

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Petitioner is reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. Petitioner has presented no evidence that the non-signing inventor was ever presented with a copy of the application papers (specification, claims, drawings, oath or declaration) for the instant application. While petitioner states a letter, declaration, power of attorney, and assignment documents were forwarded to the non-signing inventor, there is no indication the non-signing inventor ever received a complete copy of the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute an oath or declaration. (Petitioner is advised that the attachments referenced in the instant petition due not appear in the official application file.)

Any renewed petition should be accompanied by evidence to sufficiently establish that the non-signing inventor was sent a complete copy of the application papers and thereafter refused to execute the oath or declaration. A copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the non-signing inventor is represented by counsel, to the address of the non-signing inventor's attorney. Petitioner may wish to provide the Office copies of letters sent to the inventor indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventor receives the application papers and requests to execute the oath or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition.

As to item (2), an acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 and 37 CFR 1.64 has not been presented. While the submission of a declaration is referenced in the instant petition, petitioner is advise that no oath or declaration executed by the available inventor appears in the official application file. Any renewed petition must be accompanied by both the required surcharge for late submission of an executed oath or declaration along with an executed oath or declaration in compliance with 37 CFR 1.63.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, DC 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

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Petitioner is advised to take note of the Mail Stop Notice enclosed herewith.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Mail Stop Notice

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TECHNOLOGY CENTER 3600

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

In re application of
Nachum Shacham
Application No. 10/318,428 :
Filed: December 13, 2002 :
For: AUTOMATED METHOD AND SYSTEM : TO PERFORM A SUPPLY-SIDE EVALUATION OF A TRANSACTION REQUEST

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on October 12, 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. For approval of such a request the following conditions must 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) 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);
C) 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;
D) The applicant or patent owner must have been notified of the withdrawal as provided for in 37 CFR 1.36.

The request to withdraw as attorney in the above-identified application is not approved because the request does not comply with Item A) and C) above.

As to condition A), the attorneys listed as being withdrawn in Customer No. 08791 do not match the appointed. Therefore, some attorneys originally appointed would still be of record if the request were approved. It does not appear that is the intent of the request. If only certain attorneys are withdrawing, then it must be so stated.

As to condition (C), it is not clear how the discontinuation of the attorney client relationship occurred. (The attorneys may not discontinue on their own accord).

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/slb: 11/29/04

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Paper No. 7

SNELL & WILMER LLP
ONE ARIZONA CENTER
400 EAST VAN BUREN
PHOENIX, AZ 85004-2202

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MAY 30 2003

OFFICE OF PETITIONS

In re Application of
Berardi et al.
Application No. 10/318,432
Filed: December 13, 2002
Attorney Docket No. 506550900

ON PETITION

This decision concerns the April 28, 2003 petition under 37 CFR 1.47(a).[1]

The petition is **DISMISSED.**

Thirteen 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 January 27, 2003, giving Applicants an extendable 2-month period to submit a properly signed oath/declaration. The instant petition then followed, stating that one of the joint-inventors, Alexandra Mayers ("Mayers"), has refused to sign the declaration, and requesting that the signing inventors be allowed to file this application on behalf of themselves and Mayers. The petition is accompanied by a declaration signed by 12 inventors ("4/28/03 Declaration").

The available inventors may file the application on behalf of themselves as well as Mayers, provided that a *bona fide* attempt has been made to present to Mayers, for review and signature, a copy of the entire application (specification including claims; drawings),[2] and that the latter refuses to join in this application.[3]

---

[1] Including a request for a 1-month extension of time and the authorization to charge the $110 extension-of-time fee to Deposit Account No. 19-2814.

[2] MPEP section 409.03(d) (Rev.1, Feb. 2003) REFUSAL TO JOIN (A refusal . . . to sign . . . when the inventor['s representative] has not been presented with the application papers does not itself suggest that [he] is refusing to join in the application unless it is clear that [he] 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['s representative] be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that [he] is apprised of the application to which the oath/declaration is directed.).

[3] See MPEP section 409.03(d) (Rev. 1, Feb. 2003) (Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted . . . 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.).

To show that Mayers has refused to join in this application despite such a *bona fide* attempt, the petition must include, *inter alia*, a statement of facts, signed by a person with **firsthand knowledge** of the facts recited therein, concerning the circumstances of the presentation of the application papers to Mayers at her last known address,[4] and her subsequent refusal.[5]

The petition asserts that "American Express provided copies of the . . . application to [Mayers] . . .."[6] This statement is based entirely on hearsay. Moreover, the exhibits enclosed with the petition at most indicate that Mayers refused to sign the declaration, but fail to show that a copy of the entire application (specification including claims; drawings) had been previously sent to Mayers.

In view of the above, the Office is not able to conclude that a *bona fide* attempt has been made to present to Mayers a copy of the entire application (specification including claims; drawings), as required by 37 CFR 1.47. The petition is thus dismissed. The 4/28/03 Declaration is not accepted.

To prevent abandonment of this application,[7] one of the following must be submitted within **TWO MONTHS** of the mailing date of this decision:[8]

(1) an oath/declaration properly signed by all inventors, including Mayers;[9]

or

(2) a renewed §1.47(a) petition (no fee) that includes:

-a declaration re-executed by the thirteenth named inventor, John R. Williamson;[10]

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[4] 37 CFR 1.47(a); MPEP section 409.03(e) (Rev. 1, Feb. 2003).

[5] See *supra* note 3.

[6] Petition, page 5, paragraph 12, lines 9-10.

[7] See 37 CFR 1.53(f) (If an application which has been accorded a filing date . . . does not include an oath or declaration . . . pursuant to §1.63 . . . , applicant will be notified and given a period of time within which to . . . file an oath or declaration . . . to avoid abandonment).

[8] Unless proper extension(s) of time under 37 CFR 1.136(a) is (are) obtained.

[9] **Ordinarily, a declaration listing the invention and all of the inventors, but signed only by Mayers, would be sufficient for supplementing the 4/28/03 Declaration. However, in the instant case, the 13th named inventor, John R. Williamson, must re-execute the declaration, in that, his alteration in the declaration was not initialed or dated.**

[10] See *id.*

-proper statement(s)[11] of **facts** establishing that a *bona fide* attempt was made to present to Mayers, at her last known address, a copy of the entire application (specification including claims; drawings), and that Mayers nevertheless refused to sign the declaration.

The renewed §1.47(a) petition should be addressed as follows:

by mail/by hand:	Commissioner for Patents, USPTO Office of Petitions Crystal Plaza Four, Suite CP4-3C23 2201 South Clark Place Arlington, VA 22202
by fax:	(703) 308-6916 Attn: Office of Petitions

Finally, as authorized in the petition, the $130 petition fee and the $130 surcharge for failure to submit an acceptable oath/declaration upon filing of the application have been charged to Deposit Account No. 19-2814.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

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11. **Statements based on hearsay will not be considered.**

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Paper No. 9

SNELL & WILMER LLP
ONE ARIZONA CENTER
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PHOENIX, AZ 85004-2202

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OFFICE OF PETITIONS

In re Application of
Berardi et al.
Application No. 10/318,432
Filed: December 13, 2002
Attorney Docket No. 506550900

ON PETITION

This decision concerns the October 16, 2003 "Request for Reconsideration of Petition under 37 CFR 1.47" which is being treated as a renewed petition under 37 CFR 1.47(a).

The petition is **DISMISSED.**

The previous petition under 37 CFR 1.47(a), filed on April 28, 2003, asserted that one of the joint inventors for the claimed invention, Alexandra Mayers, refused to sign the application declaration. That petition was dismissed on May 30, 2003 for lacking sufficient showing that Alexandra Mayers had been provided a copy of the entire application (specification including claims; drawings) before refusing to join in this application.

The instant renewed petition encloses a "Statement Regarding Non-signing Inventor Alexandra Mayers" by Patrice Jacobson, an employee of Alexandra Mayers' former employer, stating that Patrice Jacobson and other employees have provided Alexandra Mayers with copies of this application. This statement is being construed as confirming that a copy of the entire application (specification including claims; drawings) had been provided to Alexandra Mayers before the latter refused to sign the declaration. Accordingly, the Office concludes that a *bona fide* attempt has been made, in vain, to secure Alexandra Mayers' signature in the application declaration. However, as explained in the following paragraph, the petition has not met all the requirements of 37 CFR 1.47(a).

In the May 30, 2003 decision, the Office indicated that a declaration re-executed by the thirteenth named inventor would be sufficient for supplementing the April 28, 2003 declaration. However, upon reconsideration, the Office has determined that the April 28, 2003 declaration is defective, in that, it appears to be a composite of separate pages signed by the inventors at different times.[1] Specifically, this declaration consists of a page 1; a page 2 (signed by the first inventor); 4 page 3's (each page bearing only 1 signature: that of the second, the third, the fourth, and the fifth inventor); 3 page 4's (each page bearing only 1 signature: that of the sixth, the eighth, and the ninth inventor); and 4 page 5's (each page bearing only 1 signature: that of the tenth, the eleventh, and the twelfth inventor).

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[1] It appears that each inventor had only been provided with the page he or she later signed.

In view of the above, the petition is dismissed.

To prevent abandonment of this application,[2] a renewed §1.47(a) petition, along with a substitute oath/declaration properly signed as discussed above,[3] must be submitted within **TWO MONTHS** of the mailing date of this decision, and should be addressed as follows:

by mail/by hand:	Commissioner for Patents, USPTO Office of Petitions Crystal Plaza Four, Suite CP4-3C23 2201 South Clark Place Arlington, VA 22202
by fax:[4]	(703) 308-6916 Attn: Office of Petitions

Extensions of time under 37 CFR 1.136(a) are available.

Finally, the Office acknowledges receipt with the instant petition of the request for a 3-month extension of time for filing the petition, and the $950 extension-of-time fee.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

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[2] 37 CFR 1.53(f).

[3] A complete oath/declaration may be a set of oaths/declarations each signed by less than all of the inventors, but each in itself contains the complete identifiers for the application/invention as well as the inventorship, thus indicating that each signing inventor was provided with a complete oath/declaration for signature.

[4] This facsimile number may not be used for filing petitions after 12/1/03.

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

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OFFICE OF PETITIONS

SNELL & WILMER LLP
ONE ARIZONA CENTER
400 EAST VAN BUREN
PHOENIX, AZ 85004-2202

In re Application of
Berardi et al.
Application No. 10/318,432
Filed: December 13, 2002
Attorney Docket No. 506550900

: DECISION GRANTING PETITION
: AND ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This decision concerns the second renewed petition under 37 CFR 1.47(a), filed on April 12, 2004 (Certificate of Mailing date April 6, 2004).

The renewed petition is **GRANTED.**

The October 16, 2003 renewed §1.47(a) petition was dismissed on November 6, 2003, in that, the declaration filed on April 28, 2003 appeared to be a composite one. During a subsequent telephone interview, Assignee's outside counsel indicated that even though the April 28, 2003 declaration consisted of multiple Pages 3, 4 and 5, each inventor had been provided with a complete set of declaration for execution. A set of complete declarations is enclosed with the instant renewed petition.[1]

In view of the above, the renewed petition is granted. No petition fee is owed.

As provided in 37 CFR 1.47(c), the Office will forward notice of the filing of this application to the non-signing inventor, Alexandra Mayers, at her last known address indicated in the April 28, 2003 §1.47(a) petition:

49 Grove Street, Apt. #5A
New York, NY 10014

Notice of the filing of this application will also be published in the *Official Gazette*.

As authorized in the instant renewed petition, Deposit Account No. 19-2814 has been charged $950 for a 3-month extension of time for filing the instant renewed petition.

The file is being forwarded to Technology Center 2600 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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[1] The declarations lack the citizenship of the non-signing inventor. However, the information is contained in the declaration filed in the parent application, No. 10/192,488, on 11/6/03.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Alexandra Mayers
49 Grove Street, Apt. #5A
New York, NY 10014

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OFFICE OF PETITIONS
LETTER

In re Application of :
Berardi et al. :
Application No. 10/318,432 :
Filed: December 13, 2002 :
Attorney Docket No. 506550900 :

Dear Ms. Mayers,

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: Patrick L. Mixon, Esq.
Snell & Wilmer LLP
One Arizona Center
400 East Van Buren
Phoenix, AZ 85004-2202

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

12/3/07

Patent No. :6877695
Inventor(s) : Eveker, James
Issued : 4/12/2005
Title : HINGE COVER INTEGRATION INTO DOOR SEAL EDGES
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals that the correct claims need to be on the 1050 form as well as the old claims so there is no duplication of claims. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

INGRASSIA FISHER & LORENZ P.C.
7150 EAST CAMELBACK ROAD
SUITE 325
SCOTTDALE, AZ 85251

HR/CBN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/17/08

TO SPE OF : ART UNIT 3641 Carone Michael (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/318439 Patent No.: 6877695

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE — 3641 Art Unit

MICHAEL CARONE
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
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MAR 3 1 2005

Blakely, Sokoloff, Taylor & Zafman, LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1030

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OFFICE OF THE DIRECTOR
TC 3600

In re application of
Nachum Shacham
Application No. 10/318,440 :
Filed: December 13, 2002 :
For: AUTOMATED METHOD AND SYSTEM RECOMMEND ONE OR MORE SUPPLIER-SIDE RESPONSES TO A TRANSACTION REQUEST :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on October 12, 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 Items A) and B) above.

As to Item A), there are currently 73 attorneys associated with Customer Number 08791, however, according to the original declaration power of attorney, 79 attorneys are of record in this application. If only the attorneys of record are to be withdrawn, any renewed request must so state.

As to Item B), the reason " discontinuation of attorney-client relationship" is not a valid reason for withdrawal.

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121
Facsimile No.: (703) 605-0586

RAR/dcg: 12/16/04

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Daniel L. Dawes
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Suite 1150
19900 MacArthur Blvd.
Irvine CA 92612

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OFFICE OF PETITIONS

In re Application of
Gray et al.
Application No. 10/318,477
Filed: December 13, 2002
Attorney Docket No. CIT.PAU.23

DECISION GRANTING PETITION

This is a decision on the petition filed May 28, 2003, requesting that the above-identified application be accorded a filing date of December 13, 2002, with Figures 1-5b as part of the original disclosure.

On December 13, 2002, applicants deposited the above-identified application. On March 24, 2003, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Nonprovisional Application," requiring drawings of applicants' invention and stating that the filing date would be the date of receipt of the omitted drawings. Additionally, the Notice indicated that the oath or declaration was unsigned.

In response, on May 28, 2003, applicants filed a declaration, an IDS, the present petition, the petition fee, and a copy of Figures 1-5b. Additionally, applicants submitted a copy of the date-stamped postcard receipt, acknowledging receipt of "Drawings (4 sheets of Figs. 1-5b)" on December 13, 2002.

Upon review of the record, Figures 1-5b deposited on December 13, 2002, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on December 13, 2002, included Figures 1-5b, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including Figures 1-5b, was complete on filing and will be granted a filing date of December 13, 2002.

Accordingly, the petition is granted. The requirement for drawings as set forth in the Notice of Incomplete was sent in error and is hereby vacated. Thus, the $130.00 petition fee is unnecessary and will be refunded to Deposit Account No. 01-1960. Additionally, the $65.00 surcharge for the late filing of the declaration will be charged to the Deposit Account.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of December 13, 2002, using Figures 1-5b 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
www.uspto.gov

MYERS DAWES ANDRAS & SHERMAN, LLP
19900 MACARTHUR BLVD., SUITE 1150
IRVINE, CA 92612

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OCT 2 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Andrew A. GRAY, et al	:	
Application No. 10/318,477	:	DECISION ON PETITION
Filed: December 13, 2002	:	TO WITHDRAW
Attorney Docket No. CIT.PAU.23	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 2, 2008.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Myers, Dawes, Andras & Sherman, LLP, has been revoked by the assignee of the patent application on October 7, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

Diane Goodwyn
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

Law Offices of Daniel L. Dawes
Dawes Patent Law Group
5200 Warner Blvd, Ste. 106
Huntington Beach, CA 92649

Mail Date: 04/20/2010

Applicant	: Andrew A. Gray	: DECISION ON REQUEST FOR
Patent Number	: 7602792	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/318,477	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/13/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1470** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 4

SNELL & WILMER LLP
ONE ARIZONA CENTER
400 EAST VAN BUREN
PHOENIX, AZ 85004-2202

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JUN 1 6 2003

OFFICE OF PETITIONS

In re Application of :
Berardi et al. :
Application No. 10/318,480 : ON PETITION
Filed: December 13, 2002 :
Attorney Docket No. 50655.0800 :

This decision concerns the April 28, 2003 petition under 37 CFR 1.47(a).[1]

The petition is **DISMISSED.**

Thirteen 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 January 28, 2003, giving Applicants an extendable 2-month period to submit a properly signed oath/declaration. The instant petition then followed, stating that one of the joint-inventors, Alexandra Mayers ("Mayers"), has refused to sign the declaration, and requesting that the signing inventors be allowed to file this application on behalf of themselves and Mayers. The petition is accompanied by a declaration signed by 12 inventors ("4/28/03 Declaration").

The available inventors may file the application on behalf of themselves as well as Mayers, provided that a *bona fide* attempt has been made to present to Mayers, for review and signature, a copy of the entire application (specification including claims; drawings),[2] and that the latter refuses to join in this application.[3]

---

[1] Including a request for a 1-month extension of time and the authorization to charge the $110 extension-of-time fee to Deposit Account No. 19-2814.

[2] MPEP section 409.03(d) (Rev.1, Feb. 2003) REFUSAL TO JOIN (A refusal . . . to sign . . . when the inventor['s representative] has not been presented with the application papers does not itself suggest that [he] is refusing to join in the application unless it is clear that [he] 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['s representative] be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that [he] is apprised of the application to which the oath/declaration is directed.).

[3] See MPEP section 409.03(d) (Rev. 1, Feb. 2003) (Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted . . . 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.).

To show that Mayers has refused to join in this application despite such a *bona fide* attempt, the petition must include, *inter alia*, a statement of facts, signed by a person with **firsthand knowledge** of the facts recited therein, concerning the circumstances of the presentation of the application papers to Mayers at her last known address,[4] and her subsequent refusal.[5]

The petition asserts that "American Express employees . . . provided copies of the . . . application to [Mayers] . . .";[6] that "American Express contacted Ms. Mayers on numerous occasions for the purpose of encouraging her to execute the . . . declarations and assignments . . . American Express employee . . . spoke with Ms. Mayers on . . . and again forwarded the declarations to Ms. Mayers via e-mail";[7] that "American Express e-mailed Ms. Mayers to reiterate the need . . . to execute the declaration . . . [B]ecause American Express had not received a response . . . again requested via e-mail . . . .."[8] However, the statements included in the petition, as illustrated above, are based entirely on hearsay. Moreover, the exhibits enclosed with the petition at most indicate that Mayers refused to sign the declaration, but fail to show that a copy of the entire application (specification including claims; drawings) had been provided to Mayers.

In view of the above, the Office is not able to conclude that a *bona fide* attempt has been made to present to Mayers a copy of the entire application (specification including claims; drawings), as required by 37 CFR 1.47. The petition is thus dismissed. The 4/28/03 Declaration is not accepted.

To prevent abandonment of this application,[9] one of the following must be submitted within **TWO MONTHS** of the mailing date of this decision:[10]

(1) an oath/declaration properly signed by all inventors, including Mayers;[11]

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4 37 CFR 1.47(a); MPEP section 409.03(e) (Rev. 1, Feb. 2003).

5 See *supra* note 3.

6 "Statement Regarding Non-Signing Inventor Alexandra Mayers" enclosed with petition ("Statement"), page 5, paragraph 12, lines 6-8.

7 Statement, page 5, paragraph 14, lines 1-4; page 6, top 2 lines.

8 Statement, page 6, paragraph 15, last 4 lines.

9 See 37 CFR 1.53(f) (If an application which has been accorded a filing date . . . does not include an oath or declaration . . . pursuant to §1.63 . . . , applicant will be notified and given a period of time within which to . . . file an oath or declaration . . . to avoid abandonment).

10 Unless proper extension(s) of time under 37 CFR 1.136(a) is (are) obtained.

11 **Ordinarily, a declaration listing the invention and all of the inventors, but signed only by Mayers, would be sufficient for supplementing the 4/28/03 Declaration. However, in the instant case, the 13th named inventor, John R. Williamson, must re-execute the declaration, in that, his alteration in the declaration was not initialed or dated.**

or

(2) a renewed §1.47(a) petition (no fee) that includes:

-a declaration re-executed by the thirteenth named inventor, John R. Williamson;[12]

-proper statement(s)[13] of **facts** establishing that a *bona fide* attempt was made to present to Mayers, at her last known address, a copy of the entire application (specification including claims; drawings), and that Mayers nevertheless refused to sign the declaration.

The renewed §1.47(a) petition should be addressed as follows:

by mail/by hand:	Commissioner for Patents, USPTO Office of Petitions Crystal Plaza Four, Suite CP4-3C23 2201 South Clark Place Arlington, VA 22202
by fax:	(703) 308-6916 Attn: Office of Petitions

Finally, as authorized in the petition, the $130 petition fee and the $130 surcharge for failure to submit an acceptable oath/declaration upon filing of the application have been charged to Deposit Account No. 19-2814.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

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[12] See *supra* note 11.

[13] **Statements based on hearsay will not be considered.**

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 7

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JAN 1 2 2004

OFFICE OF PETITIONS

SNELL & WILMER LLP
ONE ARIZONA CENTER
400 EAST VAN BUREN
PHOENIX, AZ 85004-2202

In re Application of	:	
Berardi et al.	:	DECISION ACCORDING
Application No. 10/318,480	:	STATUS UNDER
Filed: December 13, 2002	:	37 CFR 1.47(a)
Attorney Docket No. 50655.0800	:	

This decision concerns the October 16, 2003 renewed petition under 37 CFR 1.47(a).

The renewed petition is **GRANTED.**

The previous petition under 37 CFR 1.47(a), filed on April 28, 2003, was dismissed on June 16, 2003 for lacking sufficient showing that a *bona fide* attempt had been made to present to the non-signing inventor, Alexandra Mayers, a copy of the entire application (specification including claims; drawings) as required by 37 CFR 1.47.

Upon review of the instant renewed petition and the accompaniments, the Office concludes that a reasonably diligent effort has been made, in vain, to secure Alexandra Mayers' signature on the application declaration. The renewed petition is thus granted.

As provided in 37 CFR 1.47(c), the Office will forward notice of the filing of this application to Alexandra Mayers at her last known address indicated in the petition:

49 Grove Street, Apt. #5A
New York, NY 10014

Notice of the filing of this application will also be published in the *Official Gazette*.

No petition fee is owed. The Office acknowledges receipt with the renewed petition of the request for a 2-month extension of time and a $450 check for paying the $420 extension-of-time fee. As authorized, the $30 overpayment has been credited to Deposit Account No. 19-2814.

The file is being forwarded to Technology Center 2600 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Alexandra Mayers
49 Grove Street
Apt. #5A
New York, NY 10014

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JAN 1 2 2004

OFFICE OF PETITIONS

In re Application of
Berardi et al.
Application No. 10/318,480
Filed: December 13, 2002
For: SYSTEM AND METHOD FOR ASSIGNING A FUNDING SOURCE FOR A RADIO FREQUENCY IDENTIFICATION DEVICE

LETTER

Dear Ms. Mayers,

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: Patrick L. Mixon, Esq.
Snell & Wilmer, LLP
One Arizona Center
400 East Van Buren
Phoenix, AZ 85004-2202

UNITED STATES PATENT AND TRADEMARK OFFICE

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FERENCE & ASSOCIATES LLC
409 BROAD STREET
PITTSBURGH PA 15143

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OFFICE OF PETITIONS

In re Application of
Deligne et al.
Application No.10/318,488
Filed: December 13, 2002
Title of Invention: Adaptation of Compound Gaussian Mixture Models

ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed July 31, 2007.

This above-identified application became abandoned for failure to file a proper reply to the final Office Action of January 12, 2007. The final Office Action set a three (3) month shortened statutory period for reply. An amendment after final Office Action and a two month extension of time were filed on June 20, 2007 (certificate of mailing June 12, 2007). An Advisory Action mailed on July 18, 2007 informed petitioner the application was not placed in condition for allowance. Accordingly, this application became abandoned on June 13, 2007. This decision precedes the mailing of a Notice of Abandonment.

The statement of unintentional delay presented in the petition does not comply with the current rule. Pursuant to 37 CFR 1.137(b)(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" is required. However, the statement presented will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The address on the petition differs from the correspondence address of record. If appropriate a change of correspondence address should 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 Request for Continued Examination (RCE), and amendment will be referred to Art Unit 2626 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Stanley D. Ference III
Ference & Associates LLC
400 Broad Street
Pittsburgh, PA 15143

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JONES, TULLAR & COOPER, P.C.
P.O. BOX 2266 EADS STATION
ARLINGTON VA 22202

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MAR 2 7 2008

OFFICE OF PETITIONS

In re Application of	:	
Stewart B. Park	:	
Application No.: 10/318490	:	DECISION ON
Filing or 371(c) Date: 12/13/2002	:	PETITION
Title of Invention:	:	
MODULAR SYSTEM FOR STIMULATION	:	
AND EXFOLIATION OF HUMAN SKIN	:	

This is a decision in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed February 21, 2008.

This Petition is hereby **dismissed**.

Any further petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Non-Compliant Amendment (Notice), mailed May 16, 2007. The Notice set a one (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned June 17, 2007. A Notice of Abandonment was mailed October 4, 2007. The Notice of Abandonment incorrectly indicated as the reason for abandonment of the application, Applicant's failure to reply to the non-final Office action mailed November 29, 2006.

The present petition

Applicant files the present petition and asserts that a reply to an Office action mailed November 29, 2006, was filed on February 26, 2007. Applicant also states that the Notice of Abandonment was also not received.

Review of Office records

A review of Office records reveals that the reply to the Office action mailed November 29, 2006, was filed on February 26, 2007. The Notice was mailed in response to the reply.

Office records further reveal that a Power of Attorney and Correspondence Address Indication Form were filed on March 11, 2008, changing the correspondence from San Jose, California to Arlington, Virginia.

Applicable Law, Rules and MPEP

The MPEP 711.03(c)A, Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action, provides

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions). (Emphasis supplied)

MPEP 711.03(c)

Analysis and conclusion

A review of Office records reveals that the Notice of Non-Compliant Amendment and Notice of Abandonment were mailed to the correspondence address of record, but were not received by Petitioner. Moreover, the present petition, filed February 21, 2008, lists as the correspondence address, an Arlington, VA correspondence address, which differs from the correspondence

address of record on file with this Office on February 21, 2008. A change of correspondence address was thereafter filed on March 11, 2008. In view of the foregoing, there are circumstances that point to a conclusion that the Office action(s) may have been lost after receipt rather than lost in the mail.

The petition is dismissed without prejudice. Applicant should file a "Request for Reconsideration of Petition" and include evidence of compliance with 37 CFR 1.33 and 1.34.

Alternate Venue

Alternatively, Applicant is advised to file a petition to revive the application based upon an unintentional abandonment. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JONES, TULLAR & COOPER, P.C.
P.O. BOX 2266 EADS STATION
ARLINGTON VA 22202

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JUN 26 2008

OFFICE OF PETITIONS

In re Application of	:	
Stewart B. Park	:	
Application No.: 10/318490	:	DECISION ON
Filing or 371(c) Date: 12/13/2002	:	PETITION
Title of Invention:	:	
MODULAR SYSTEM FOR STIMULATION	:	
AND EXFOLIATION OF HUMAN SKIN	:	

This is a decision in response to the Petition for Revival of Application Abandoned Unintentionally Under 37 CFR 1.137(b), filed April 16, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Non-Compliant Amendment (Notice), mailed May 16, 2007. The Notice set a one (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned June 17, 2007. A Notice of Abandonment was mailed October 4, 2007.

Applicant files the present petition and Amendment in response to the Notice. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 1744 for processing of the reply to the Notice filed with the petition 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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11400 BURNET ROAD
AUSTIN, TX 78758

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DEC 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Michael Norman Day et al :
Application No. 10/318,541 :
Filed: December 12, 2002 :
Attorney Docket No. AUS920020471US1 :

ON PETITION

This is a decision on the petition filed December 5, 2005, which is being treated under 37 CFR 1.313(c)(2),, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on 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]

The correspondence filed on December 5, 2005 is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Gregory W. Carr appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Mr. Carr desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Carr, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

---

[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).

This matter is being referred to Technology Center AU 2188 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions

cc: CARR
670 FOUNDERS QUARE
900 JACKSON STREET
DALLAS, TX 75202

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 14

CISLO & THOMAS, LLP
233 WILSHIRE BLVD
SUITE 900
SANTA MONICA, CA 90401-1211

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Vincent Ardizzone :
Application No. 10/318,552 :
Filed: December 13, 2002 :
Attorney Docket No. 02-11298 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 26, 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 final Office action mailed November 26, 2003, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 27, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This application is being forwarded to Technology Center AU 3736 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. 4

ROBERT J. SCHAAP
Suite 188
21241 Ventura Boulevard
Woodland Hills, CA 91364

COPY MAILED

APR 0 9 2003

OFFICE OF PETITIONS

In re Application of
Mahon
Application No. 10/318,562
Filed: December 13, 2002
For: PARALLEL PLATE SEPTUM POLARIZER FOR LOW PROFILE ANTENNA APPLICATIONS

DECISION ON PETITION

This is a decision on the petition filed March 10, 2003, requesting, in effect, that Figure 8 filed on December 13, 2002, be entered as part of the original disclosure.

The petition is **dismissed**.

The application was filed on December 13, 2002.

On January 24, 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 13, 2002, and advising applicants that Figure 8 appeared to have been omitted.

In response, the present petition was filed. Petitioner alleges Figure 8 was filed with the original application.

All the evidence present in the file has been carefully considered, but is not persuasive that Figure 8 was submitted with the original application.

The last portion of MPEP 513 states,

> Where there is a dispute as to the contents of correspondence submitted to the Office (e.g., an applicant asserts that three sheets of drawings were submitted under 37 CFR 1.10 with an application, but the Office records indicate receipt of only two sheets of drawings with the application) ... The Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g. a postcard receipt ....

While petitioner apparently believes that Figure 8 was filed on December 13, 2002, the file of application No. 10/318,562[1] shows that Figure 8 was not received, since no such paper is present in the file. An applicant alleging that a paper was filed in the USPTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence. In this regard, declarations

[1] The file contains the actual papers received and the file is an official government record prepared and maintained by disinterested USPTO employees as a part of their customary and usual duties.

by individuals involved in the preparation and filing of the original application reciting their personal recollection or belief of what was contained in the application that they reviewed are generally not more persuasive of what was actually filed in the USPTO than the contents of the application file. Such declarations are usually made weeks or months after the actual events recited. Thus, the declarations do not have more probative value than the official government record of what was actual received in the USPTO on December 13, 2002.

It is for this reason that the USPTO has established a practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice, which was has been in existence for many years and is well publicized, requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See section 503, Manual Of Patent Examining Procedure (MPEP 503).

Petitioner has only demonstrated an intent to file Figure 8 and has not established that Figure 8 was actually filed. Unfortunately, patent applicants and their representatives, who intend to file complete applications, occasionally file applications which are missing one or more pages, due to clerical error, a copying machine error (such as papers sticking together), papers falling out of a file, or another reason. A demonstration of an intent to included a page or pages does not establish the actual receipt of such pages by the Office.

A review of the file indicates that the transmittal sheet states the application includes 7 sheets of drawings. The Office received 7 sheets of drawings. The evidence supplied by petitioner fails to prove that the application was actually filed with eight sheets of drawings.

Since applicants have not filed a petition under 37 CFR 1.182 requesting March 10, 2003, the date the missing pages were filed, as the filing date, the drawing page filed on March 10, 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 an amendment. Any such amendment will, of course, be reviewed by the examiner for 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 13, 2002, using only the papers filed on that date.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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)
6861997	2005-03-01	10/318,562	2002-12-13	O007-P09363US

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

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The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Cynthia P. Espino/	Date (YYYY-MM-DD)	2009-08-20
Name	Cynthia P. Espino		
Enter Reel and Frame Number		Remove	
Reel Number	013579	Frame Number	0671
Click ADD for additional Reel Number and Frame Number		Add	

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6861997
Issue Date: March 1,2005
Application No. 10318562
Filed: December 13,2002
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 21,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 21,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6843535
Issue Date: January 18,2005
Application No. 10318574
Filed: December 12,2002
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 3,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 3,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6843535	2005-01-18	10318574	2002-12-12	

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)
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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.

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THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

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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

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.

A Joint Patentee and I certify that I am authorized to sign this submission on behalf of all the other patentees			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/glen edward thomas/	Date (YYYY-MM-DD)	2009-03-03
Name	Glen Edward Thomas		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

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UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY F COMMERCE F R INTELLECTUAL PR PERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
PO BOX 1450 ALEXANDRIA VA 22313-450
WWW.USPTO.GOV

#5

AUG -4 2003

Andrew F. Nilles
TRASKBRITT
P.O. Box 2550
Salt Lake City, Utah 84110-2550

In re Application of	:
Leenhouts et al	:
Application Serial No.: 10/318,675	: DECISION ON PETITION
Filed: December 13, 2002	:
Attorney Docket No.: 2183-5546US	

This is in response to petition to make special for new application under MPEP 708.02 XII filed July 1, 2003.

Applicant's statement and evidence show that requirements of MPEP 708.02 XII have been met. Accordingly, the petition is granted. Instant application has been made special and will be advanced out of turn for examination and will continue to be treated as special through out the entire prosecution in the Office. There is no provision for "withdrawal' from this special status.

Petition Granted.

Cecilia Tsang
Special Program Examiner, TC1600

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)
6912146	2005-06-28	10318705	2002-12-13	P14560

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
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MAINTENANCE FEE (37 CFR 1.20(e)-(g))

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STATEMENT

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PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

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I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Jeffrey S. Draeger/	Date (YYYY-MM-DD)	2009-11-02
Name	/Jeffrey S. Draeger/	Registration Number	41000

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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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. 6912146
Issue Date: June 28,2005
Application No. 10318705
Filed: December 13,2002
Attorney Docket No. ITO.0521US (P14560)

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 3,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 3,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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

Ryan, Mason & Lewis, LLP
90 Forest Avenue
Locust Valley, NY 11560

In re Patent No. 6,778,431 :

Issue Date: August 17, 2004 :

Application No. 10/318,709 : ON PETITION

Filed: December 13, 2002 :

Attorney Docket No. **YOR920020295US1**

This is a decision on the petition filed May 31, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

The instant petition is $130.00. Accordingly, deposit account 50-0762 will be refunded $270.00, in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The file is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] See *Official Gazette* of June 22, 2004.

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In re Patent No. 6,778,431

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Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] See *Official Gazette* of June 22, 2004.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20061005

DATE : October 5, 2006

TO SPE OF : ART UNIT 2824

SUBJECT : Request for Certificate of Correction on Patent No.: 7,778,431

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:

Examiner, Vu Le.

10/5/06
RICHARD ELMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE: Richard Elms **Art Unit** 2824

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/05/06

TO SPE OF : ART UNIT 2824

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/318709** Patent No.: **6778431**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

A. Green

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: _____

RICHARD ELMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

10/20/06 2824

SPE **Art Unit**