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DIW 05-03

Paper No. 6

BROOKS & KUSHMAN P.C. / LEAR CORPORATION
1000 TOWN CENTER TWENTY-SECOND FLOOR
SOUTHFIELD MI 48075

COPY MAILED

MAY 22 2003

OFFICE OF PETITIONS

In re Application of	:	
Dykman, Cannon, Yu, Ebbitt, and	:	
Jones	:	
Application No. 10/324,644	:	DECISION REFUSING STATUS
Filed: 19 December, 2002	:	UNDER 37 CFR 1.47(a)
Atty Docket No. LEAR 1015 PUS	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 7 April, 2003.

The petition is **DISMISSED**.

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

The above-identified application was filed on 19 December, 2002, without an executed oath or declaration. Accordingly, on 30 January, 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 7 April, 2003 (certificate of mailing 31 March, 2003), petitioners filed the present petition, along with a declaration naming Michael C. Dykman, Carter S. Cannon, Lorriance C. Yu, Gordon L. Ebbitt, and Michelle W. Jones as joint inventors and signed by all of the joint inventors except Yu on behalf of themselves and joint inventor Yu.

Petitioners state that joint inventor Yu refuses to sign the declaration.

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

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

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

(3) the petition fee;

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

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

The petition lacks item (1). In regards to item (1), petitioners have not provided proof that Yu was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1] Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

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

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

---

[1] MPEP 409.03(d).

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

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

BROOKS & KUSHMAN P.C. / LEAR CORPORATION
1000 TOWN CENTER TWENTY-SECOND FLOOR
SOUTHFIELD MI 48075

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JUN 2 4 2003

OFFICE OF PETITIONS

In re Application of	:	
Dykman, Cannon, Yu, Ebbitt, and	:	
Jones	:	
Application No. 10/324,644	:	DECISION ACCORDING STATUS
Filed: 19 December, 2002	:	UNDER 37 CFR 1.47(a)
Atty Docket No. LEAR 1015 PUS	:	

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 19 June, 2003.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor cannot be found. Specifically, the affidavit of Mark E. Stuenkel filed with the present renewed petition establishes that attempts were made to locate the non-singing inventor by mail, telephone, and e-mail. Despite these efforts, the inventor could not be located.
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 renewed petition, not the declaration. Notice of the filing of this application will also be published in the Official Gazette.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DIW 08-03

Lorraine C. Yu
16822 N-E 39th Court
Apt. B-1007
Redmond, WA 98052

COPY MAILED

JUN 24 2003

OFFICE OF PETITIONS

In re Application of
Dykman et al.
Application No. 10/324,644
Filed: 19 December, 2002
For: STRUCTURAL HEADLINER ASSEMBLY

Dear Ms. Yu:

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

BROOKS & KUSHMAN P.C. / LEAR CORPORATION
1000 TOWN CENTER TWENTY-SECOND FLOOR
SOUTHFIELD MI 48075

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/23/06

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/324,653 Patent No.: 6845039

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. _____

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: Missing Amendments filed on 12/18/02

VIET Q. NGUYEN
PRIMARY EXAMINER

SPE

2827
Art Unit

Knobbe Martens Olson & Bear LLP
Intellectual Property Law

10/324653

2040 Main Street
Fourteenth Floor
Irvine, CA 92614
Tel 949-760-0404
Fax 949-760-9502
www.kmob.com

CQC

OIPE IAP19
JAN 20 2006
PATENT & TRADEMARK OFFICE

Bruce S. Itchkawitz, Ph.D.
bsi@kmob.com

January 18, 2006

Certificate
JAN 24 2006
of Correction

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

I hereby certify that this correspondence and all marked attachments are 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

January 18, 2006
(Date)

Bruce S. Itchkawitz, Reg. No. 47,677

Re: Title: **PROGRAMMING METHODS FOR MULTI-LEVEL FLASH EEPROMS**
Letters Patent No. 6,845,039 B2
Issued: January 18, 2005
Our Reference: MICRON.149DV1

Dear Sir:

Enclosed for filing is a Certificate of Correction in connection with the above-identified patent.

As the errors cited in the Certificate of Correction were incurred through the fault of the Patent Office, no fee is believed to be required. However, please charge our Deposit Account No. 11-1410 for any fees that may be incurred with this request.

Respectfully submitted,

Knobbe, Martens, Olson & Bear, LLP

Bruce S. Itchkawitz
Registration No. 47,677
Customer No. 20,995

Enclosure

2296055
011806

JAN 25 2006

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,845,039 B2

DATED : January 18, 2005

INVENTORS : Chun 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:

In Col. 10, Line 32 (approx.), Claim 1, after "applying a" insert – **selected constant** -.

In Col. 10, Line 35, Claim 1, before "injecting" insert – **generating a selected threshold voltage for the memory cell corresponding to a selected one of the programming states by** -.

In Col. 10, Line 37, Claim 1, after "whereby" delete – **a** – and insert – **the** -.

In Col. 10, Lines 37-39, Claim 1, after "for" delete – **the memory cell corresponding to a selected one of the programming states is generated by** – and insert –**each programming state is generated by** -.

In Col. 10, Line 39, Claim 1, before "selected" insert – **different** -.

In Col. 10, Line 41, Claim 2, delete – **The method of claim 1** – and insert – **A method for programming a memory cell of an electrically erasable read only memory, the memory cell fabricated on a substrate and comprising a source region, a drain region, a floating gate, and a control gate, the memory cell having a threshold voltage selectively configurable into one of at least three programming states, the method comprising: generating a drain current between the drain region and the source region by applying a drain-to-source bias voltage between the drain region and the source region; and injecting hot electrons from the drain current to the floating gate by applying a gate voltage to the control gate, whereby a selected threshold voltage for the memory cell corresponding to a selected one of the programming states is generated by applying a selected constant drain-to-source bias voltage** -.

MAILING ADDRESS OF SENDER:

Bruce S. Itchkawitz
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, California 92614

PATENT NO. 6,845,039 B2

2294252
011806

January 18, 2006

MICRON.149DV1
FORM PTO 1050

No. of add'l. copies
@ 50¢ per page
⇨ 0

JAN 25 2006

In Col. 10, Line 47, Claim 3, delete – **The method of claim 1,** - and insert – **A method for programming a memory cell of an electrically erasable programmable read only memory, the memory cell fabricated on a substrate and comprising a source region, a drain region, a floating gate, and a control gate, the memory cell having a threshold voltage selectively configurable into one of at least three programming states, the method comprising: generating a drain current between the drain region and the source region by applying a drain-to-source bias voltage between the drain region and the source region; and injecting hot electrons from the drain current to the floating gate by applying a gate voltage to the control gate, whereby a selected threshold voltage for the memory cell corresponding to a selected one of the programming states is generated by applying a selected constant drain-to-source bias voltage,** -.

In Col. 10-11, Lines 55-67 and 1-4, Claim 4, delete – **A method for programming a memory cell of an electrically erasable programmable read only memory, the memory cell fabricated on a substrate and comprising a source region, a drain region, a floating gate, and a control gate, the memory cell having a threshold voltage selectively configurable into one of at least three programming states, the method comprising: generating a drain current between the drain region and the source region by applying a drain-to-source bias voltage between the drain region and the source region; and injecting hot electrons from the drain current to the floating gate by applying a gate voltage to the control gate, whereby a selected threshold voltage for the memory cell corresponding to a selected one of the programming states is generated by applying a selected constant drain-to-source bias voltage,** - and insert – **The method of claim 1,** -.

As submitted in Applicants' Amendment and Response to June 25, 2004 Office action dated September 10, 2004 and as allowed in the Notice of Allowability mailed October 10, 2004, after Claim 9, add Claims 10-21 as set out below:

10. The method of Claim 2, wherein the selected constant drain-to-source bias voltage is applied for a selected period of time.

11. The method of Claim 10, wherein the selected period of time is between approximately 1 ns and approximately 10 μs.

12. The method of Claim 2, wherein the gate voltage is ramped from an initial magnitude to a final magnitude greater than the initial magnitude, the gate voltage being ramped with a ramping rate.

13. The method of Claim 12, wherein the ramping rate is between approximately 5.5 V/ms and approximately 10.5 V/ms.

14. The method of Claim 12, wherein the final magnitude is between approximately 5.5 V and approximately 10.5 V.

JAN 25 2006

15. The method of Claim 2, wherein a reverse back bias is applied between the substrate and the source region.

16. The method of Claim 3, wherein the selected constant drain-to-source bias voltage is applied for a selected period of time.

17. The method of Claim 16, wherein the selected period of time is between approximately 1 ns and approximately 10 μs.

18. The method of Claim 3, wherein the gate voltage is ramped from an initial magnitude to a final magnitude greater than the initial magnitude, the gate voltage being ramped with a ramping rate.

19. The method of Claim 18, wherein the ramping rate is between approximately 5.5 V/ms and approximately 10.5 V/ms.

20. The method of Claim 18, wherein the final magnitude is between approximately 5.5 V and approximately 10.5 V.

21. The method of Claim 3, wherein a reverse back bias is applied between the substrate and the source region.

JAN 25 2006

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091201

DATE : December 01, 2009

TO SPE OF : ART UNIT 2621

SUBJECT : Request for Certificate of Correction on Patent No.: 6,891,563

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:

Changes to column 16 and to column 26 are to be entered. The column 16 amendment corrects a typographical error. The column 26 amendment corrects the orignally filed listing of claims which omitted claim 24 from the set of claims. This is not considered a change in the scope of the claims. Changes to column 24 are not to be entered as that limitation does change the scope of oringally filed claim 1.

/Mehrdad Dastouri/
Supervisory Patent Examiner.Art Unit 2621

PAGE 2/2 * RCVD AT 12/1/2009 3:28:38 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/30 * DNIS:2709848 * CSID:7033085359 * DURATION (mm-ss):01-04

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091201

DATE : December 01, 2009

TO SPE OF : ART UNIT 2621

SUBJECT : Request for Certificate of Correction on Patent No.: 6,891,563

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:

Changes to column 16 and to column 26 are to be entered. The column 16 amendment corrects a typographical error. The column 26 amendment corrects the orignally filed listing of claims which omitted claim 24 from the set of claims. This is not considered a change in the scope of the claims. Changes to column 24 are not to be entered as that limitation does change the scope of oringally filed claim 1.

/Mehrdad Dastouri/
Supervisory Patent Examiner.Art Unit 2621

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01-15-10

TO SPE OF : ART UNIT 2621

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/324679 Patent No.: 6891563

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Angela Green 703-756-1541
Certificates of Correction Branch
703-756-1814

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: CERTIFICATE OF CORRECTION CORRECTS NUMBERING OF FINALLY ALLOWED CLAIMS. NOT DIRECTED TO MATTERS OF SCOPE.

MEHRDAD DASTOURI — SPE
2621 — Art Unit

PTOL-308 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

IANDIORIO & TESKA
INTELLECTUAL PROPERTY LAW ATTORNEYS
260 BEAR HILL ROAD
WALTHAM, MA 02451-1018

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JUN 2 7 2003

OFFICE OF PETITIONS

In re Application of :
Brian T. Cunningham et al :
Application No. 10/324,685 : DECISION GRANTING STATUS
Filed: December 19, 2002 : UNDER 37 CFR 1.47(A)
For: FLEXURAL PLATE WAVE SENSOR AND :
ARRAY :

This is in response to the petition under 37 CFR 1.47(a), filed May 15, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BRIAN T. CUNNINGHAM
23 BEDFORD STREET
LEXINGTON, MA 02420

COPY MAILED

JUN 27 2003

OFFICE OF PETITIONS

In re Application of
Cunningham and Williams
Application No. 10/324,685
Filed: December 19, 2002
For: FLEXURAL PLATE WAVE SENSOR AND ARRAY

Dear Mr. Cunningham:

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

CC:
IANDIORIO & TESKA
INTELLECTUAL PROPERTY LAW ATTORNEYS
260 BEAR HILL ROAD
WALTHAM, MA 02451-1018

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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AUG 0 6 2007

OFFICE OF PETITIONS

In re Application of
Terho Kaikuranta
Application No. 10/324,700
Filed: December 18, 2002
Attorney Docket No.: **944-003.159**

ON PETITION

This is a decision on the petition filed July 20, 2007 under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure totimely reply to the non-Final Office Action mailed December 27, 2006. 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 March 28, 2007. Accordingly, a Notice of Abandonment was mailed on July 17, 2007.

A review of the record reveals that a three month extension of time was filed with the instant petition, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable forreply to avoid abandonment. Accordingly, since the $1020.00 extension of time fee submitted with the petition on July 20, 2007, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 23-0442.

This matter is being referred to Technology Center 3628 for appropriate action on the amendment filed July 20, 2007.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] 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)).

DATE: 8/6 APPLICATION NUMBER: 10/324,700

DOC CODE: IDFEE DOC DATE: 8/6/07

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

OIPE IAP87
JUL 2 0 2007
PATENT & TRADEMARK OFFICE

PTO/SB/22 (04-07)
Approved for use through 09/30/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARMENT OF COMMERCE
Under the paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless if displays a valid OMB control number.

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a) FY 2006 (Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).)	Docket Number (Optional) 944-003.159
Application Number 10/324,700	Filed December 18, 2002
For Method and apparatus for a call cost indicator	
Art Unit 3628	Examiner Erb, Nathan

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):

		Fee	Small Entity Fee	
☐	One month (37 CFR 1.17(a)(1))	$120	$60	$
☐	Two months (37 CFR 1.17(a)(2))	$450	$225	$
☒	Three months (37 CFR 1.17(a)(3))	$1020	$510	$ 1,020.00
☐	Four months (37 CFR 1.17(a)(4))	$1590	$795	$
☐	Five months (37 CFR 1.17(a)(5))	$2160	$1080	$

☐ Applicant claims small entity status. See 37 CFR 1.27.

☒ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account.

☐ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number _____. I have enclosed a duplicate copy of this sheet.

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.

Repln. Ref: 08/05/2007 CKHLOK 0010382400
FCS 920442 Name/Number:10324700
$1020.00 CR

I am the ☐ applicant/inventor.

☐ assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).

☒ attorney or agent of record. Registration Number 31,391

☐ attorney or agent under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

Francis J Maguire — Signature
18 JULY 2007 — Date

Francis J. Maguire — Typed or printed name
(203) 261-1234 — Telephone Number

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☒ Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.136(a). 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 6 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.

Adjustment date: 08/06/2007 CKHLOK
07/23/2007 RFEKADU1 00000012 10324700
02 FC:1253 -1020.00 OP

07/23/2007 RFEKADU1 00000012 10324700
02 FC:1253 1020.00 OP

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 08/06/07

2 Serial/Patent # 10/324,700

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
X	Extension of Time	IFW	07/20/07	$ 1,020.00
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

1253

7 TOTAL AMOUNT OF REFUND $ 1,020.00

8 TO BE REFUNDED BY:

- [ ] Treasury Check
- [ ] Credit Deposit A/C #:

9 2 3 -- 0 4 4 2

10 REASON:

- [ ] Overpayment
- [ ] Duplicate Payment
- [X] No Fee Due (Explanation):

Outside maximum period obtainable.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Patricia Faison-Ball TITLE: Attorney

SIGNATURE: Patricia Faison-Ball PHONE: 2-3212

OFFICE: PETITIONS

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: CKhok DATE: 8/6/07

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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Christie, Parker & Hale, LLP
P.O. Box 7068
Pasadena, CA 91109-7068

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JUL 09 2008

OFFICE OF PETITIONS

In re Application of
Mark Huntley
Application No. 10/324,708
Filed: December 19, 2002
Attorney Docket No. 48674/LTR/T67

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) or 37 C.F.R. § 10.40 filed June 10, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Samuel W. Apicelli does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. 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 above-listed address until otherwise properly notified by the applicant.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Samuel W. Apicelli
Duane Morris, LLP
30 S. 17th Street
Philadelphia, PA 19103-4196

cc: Scott D. Clair
Deere & Company
One John Deere Place
Moline, IL 61265

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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BP America Inc.
Docket Clerk, BP Legal, M.C. 2207A
200 East Randolph Drive
Chicago, IL 60601-7125

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APR 18 2005

OFFICE OF PETITIONS

In re Application of
Jerome A. Streeky, et al.
Application No. 10/324,727
Filed: December 19, 2002
Attorney Docket No. 39,043

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed February 22, 2005.

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before September 22, 2004. A Notice of Abandonment was mailed on October 27, 2004. Receipt is acknowledged of the requisite issue/publication on February 22, 2005.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. 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 forwarded to Publishing Division.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (703) 305-8283.

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

cc: Stephen L. Hensley
BP America Inc., Mail Code 5 East
4101 Winfield Road
Warrenville, IL 60555

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No.

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P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Patent No. 7,230,144	:
Zhong et al.	: LETTER REGARDING
Issue Date: June 12, 2007	: PATENT TERM ADJUSTMENT
Application No. 10/324,750	:
Filed: December 18, 2002	:
Atty Docket No. 14074-012001 / MBX047.3	:

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed July 23, 2007. The letter indicates that there may be an error in the calculations of the PTA, based on the period during final rejection when the Office removed 63 days from the patent term adjustment.

The application matured into US Patent No. 7,230,144, with a revised patent term adjustment of 0 days. A review of the record confirms that a period of reduction of 96 days, not 64 days should have been entered for applicant delay in taking action in response to the final rejection mailed December 23, 2005. A response in compliance with 1.113(c) was not filed until a notice of appeal was filed on June 27, 2006. The response filed May 26, 2006 did not stop the clock for calculation of the period under 37 CFR 1.704(b). The amendment was not in compliance with 1.113(c) as indicated in the advisory action mailed June 14, 2006. Accordingly, the period of delay is from March 24, 2006 to June 27, 2006, the date of filing of a compliant response, or 96 days. The period of reduction has been corrected.

Nonetheless, the revised patent term adjustment indicated in the patent remains 0 days. Given that the alleged error in calculation would not change the Patent Term Adjustment indicated in the above-identified patent, it is determined that no further action is required by the Office.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

RECEIVED 5/19/05

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/22/04

TO SPE OF : ART UNIT 2838

SUBJECT : Request for Certificate of Correction on Patent No.: 10/324,762 6,801,016

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - 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.

A Green
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:

TYPOGRAPHICAL ERRORS 5/19/05

SPE

2838
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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TEXAS INSTRUMENTS INCORPORATED
P. O. BOX 655474, M/S 3999
DALLAS, TX 75265

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APR 23 2009

OFFICE OF PETITIONS

In re Patent No. 6,920,193 :
Issue Date: July 19, 2005 :
Application No. 10/324,770 : NOTICE
Filed: December 19, 2002 :
Patentee(s): Sirikiat Lek Ariyavisitakul, et. al. :

This is a Notice regarding your request filed on March 17, 2009, which is being treated as a request under 37 CFR 1.28(c) for acceptance of a fee deficiency submission.

The request is **dismissed**.

It is noted that the fee deficiency payment for the above patent is signed by Payments Coordinator, Dawn Mabry. However, it appears that the change in entity status is signed by an attorney of record, Warren L. Franz, who failed to include his signature on the present change of status. Therefore, the request to change the status to large entity cannot be accepted at this time.

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.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Air Products and Chemicals, Inc.
Patent Department
7201 Hamilton Boulevard
Allentown, PA 18195-1501

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FEB 07 2005

OFFICE OF PETITIONS

In re Application of :
John Anthony Thomas Norman, et al. :
Application No. 10/324,781 : ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. 06322P USA :

This is a decision on the petition under 37 CFR 1.137(b), filed December 8, 2004, to revive the above-identified application.

The petition is **GRANTED**.

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

The application file is being referred to the Publishing Division to be processed into a patent.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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SAWYER LAW GROUP
P.O. Box 51418
Palo Alto CA 94303

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OFFICE OF PETITIONS

In re Application of :
Guogen Zhang et al. :
Application No. 10/324,800 : ON PETITION
Filed: December 19, 2002 :
Attorney Docket No. :
SVL920020092US1/2641P

This is a decision on the petition under 37 CFR 1.137(b)[1], filed January 12, 2007 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned February 23, 2006 for failure to timely file a a response to the Final Office Action mailed November 22, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

Petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 2165 for a processing of the RCE.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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BOULDER PATENT SERVICE INC
1021 GAPTER ROAD
BOULDER, CO 80303-2924

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JAN 2 8 2004

OFFICE OF PETITIONS

In re Application of :
John E. Mercer :
Application No. 10/324,804 : NOTICE
Filed: December 19, 2002 :
Attorney Docket No. DCI-4C10 :

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.

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

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OFFICE OF PETITIONS

BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK NY 10112-4498

In re Patent No. 6,936,127	:	
Issued: August 30, 2005	:	
Application No. 10/324,828	:	NOTICE
Filed: December 20, 2002	:	
Attorney Docket No. A35504 - 072841.0180	:	

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

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

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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NEW YORK NY 10112-4498

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OFFICE OF PETITIONS

In re Patent No. 6,892,434	:	
Issued: May 17, 2005	:	
Application No. 10/324,829	:	NOTICE
Filed: December 20, 2002	:	
Attorney Docket No. A35505 - 072841.0181	:	

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

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

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

Mail Date: 04/20/2010

Applicant	: Scott A. Burton	: DECISION ON REQUEST FOR
Patent Number	: 7612248	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/324,832	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/19/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1887** 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
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AT&T Legal Department - WW
Patent Docketing Room 2A-207
One AT&T Way
Bedminster, NJ 07921

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MAR 3 1 2009

OFFICE OF PETITIONS

In re Application of :
Christopher White :
Application No. 10/324,870 : ON PETITION
Filed: December 19, 2002 :
Attorney Docket No. CING0471/642.US :

This is a decision on the petition under 37 CFR 1.137(b), filed February 11, 2009, to revive the above-identified application.

The application became abandoned for failure to file a proper reply to the final Office action mailed on August 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 a Request for Continued Examination (RCE) with the submission required under 37 CFR 1.114 and fee of $810; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

Since the correspondence address given in the present petition differs from the address of record, a courtesy copy of this decision is being mailed to the address in the petition. Thereafter, all future correspondence will be mailed solely to the address of record until otherwise instructed.

This application file is being referred to Technology Center Art Unit 2437 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment filed with the present petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Robert A. Madayag
1180 Peachtree Street, NE
Suite 1800
Atlanta, GA 30309

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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500 W. MADISON STREET
SUITE 3800
CHICAGO, IL 60661

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JUN 0 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Atsushi Fukui et al	:	
Application No. 10/324,892	:	NOTICE
Filed: December 20, 2002	:	
Attorney Docket No. 01488-0013	:	

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 2815.

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

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John G. Posa
Gifford, Krass, Groh, Sprinkle,
Anderson & Citkowski, P.C.
Suite 400
Birmingham, MI 48009-5394

MAILED

APR 0 6 2005

Technology Center 2100

In re Application of:
Patrick ZUILI
Application No. 10/324,896
Filed: December 20, 2002
For: VIDEO DECODER SYSTEM AND METHOD WITH ENHANCED DIGITAL RIGHTS MANAGEMENT (DRM)

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed October 25, 2004 and the Supplemental Request to Withdraw from Representation filed December 6, 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 Office will continue to be directed to the above-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.

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

IFW

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John G. Posa
Gifford, Krass, Groh, Sprinkle,
Anderson & Citkowski, P.C.
Suite 400
Birmingham, MI 48009-5394

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APR 0 6 2005
Technology Center 2100

In re Application of:
Patrick ZUILI
Application No. 10/324,896
Filed: December 20, 2002
For: VIDEO DECODER SYSTEM AND METHOD WITH ENHANCED DIGITAL RIGHTS MANAGEMENT (DRM)

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed October 25, 2004 and the Supplemental Request to Withdraw from Representation filed December 6, 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 Office will continue to be directed to the above-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.

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

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,749,161	2004-06-15	10/324,903	2002-12-20	058141.078244-0001

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	/Charles E. Burpee/	Date (YYYY-MM-DD)	2008-08-13
Name	Charles E. Burpee	Registration Number	29776

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. 6749161
Issue Date: June 15,2004
Application No. 10324903
Filed: December 20,2002
Attorney Docket No.

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

This is a decision on the electronic petition, filed August 13,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 13,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON TX 77056

COPY MAILED

MAR 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Kishan Shenoi	:	
Application No.: 10/324912	:	DECISION ON
Filing or 371(c) Date: 12/20/2002	:	PETITION
Attorney Docket Number:	:	
SYMM1290-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 4, 2008, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed August 23, 2007. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned November 24, 2007. A Notice of Abandonment was mailed December 20, 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 and the publication fee[1]; (2) the petition fee; and (3) a proper statement of unintentional delay.

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

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

Derek L. Woods
Attorney
Office of Petitions

[1] Applicant's deposit account has been charged the issue fee in effect at the time the payment was made, $1440.00, as authorized in the Issue Fee Transmittal Form.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY NY 11530

COPY MAILED

JUN 20 2008

In re Application of :
Keh-Shin Fu CHENG et al. :
Application No. 10/324,919 : DECISION ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. **YOR920020354US1** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 08, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 08, 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 May 09, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office Action of February 08, 2007 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.

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

This application is being referred to Technology Center AU 2626 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b) (Large Entity)	Docket No. YOR920020354US1 (22512)

In Re Application Of: **Keh-Shin Fu CHENG et al.**

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
10/324,919	December 20, 2002	Lamont M. Spooner	48233	2626	1449

Invention: **CREATING TAXONOMIES AND TRAINING DATA IN MULTIPLE LANGUAGES**

Attention: Office of Petitions
Mail Stop Petition
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

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 response to a notice or action by the Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extension 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. ☒ A proposed reply to the above-identified notice or action:

   ☒ is enclosed. ☐ was filed on _____

   The proposed reply is in the form of: **Response Under 37 C.F.R. Section 1.111**

2. ☐ The issue fee:

   ☐ is enclosed. ☐ was paid on _____

3. ☒ The abandoned application was a:

   ☐ design application. ☒ utility application. ☐ plant application.

4. ☐ A terminal disclaimer (and fee) disclaiming a period equivalent to the period of abandonment is enclosed.

5. ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b) (Large Entity)	Docket No. YOR920020354US1 (22512)

In Re Application Of: **Keh-Shin Fu CHENG et al.**

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
10/324,919	December 20, 2002	Lamont M. Spooner	48233	2626	1449

Invention: **CREATING TAXONOMIES AND TRAINING DATA IN MULTIPLE LANGUAGES**

Calculation and Payment of Fees

Enclosed are the following fees:

6. ☒	Petition fee under 37 CFR 1.17(m) in the amount of:	$1,540.00
7. ☐	Fee for reply in the amount of:	
8. ☐	Issue fee in the amount of:	
9. ☐	Continuing application filing fee in the amount of:	
10. ☐	Terminal disclaimer fee in the amount of:	
11. ☐	_____	
	Total fees enclosed:	$1,540.00

The fee of $1,540 is to be paid as follows:

☐ A check in the amount of the fee is enclosed.

☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 50-0510/IBM

☐ Payment by credit card. Form PTO-2038 is attached.

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.

Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b) (Large Entity)	Docket No. YOR920020354US1 (22512)

In Re Application Of: **Keh-Shin Fu CHENG et al.**

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
10/324,919	December 20, 2002	Lamont M. Spooner	48233	2626	1449

Invention: **CREATING TAXONOMIES AND TRAINING DATA IN MULTIPLE LANGUAGES**

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 appliation 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, petitioner/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

Dated: **May 8, 2008**

Steven Fischman
Registration No. 34,594
SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 Garden City Plaza, Suite 300
Garden City, New York 11530
(516) 742-4343

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37

(Date)

Signature of Person Mailing Correspondence

Typed or Printed Name of Person Mailing Correspondence

AK/SF:ech
cc:

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10324919 Total Records Found: 2

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
05/09/2008	00002045	4	1453	$1,540.00	05/08/2008	DA 500510
12/24/2002	00000194	1	1001	$740.00	12/20/2002	DA 500510

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Keh-Shin Fu Cheng, et al	**Docket:**	YOR920020354US1 (22512)
Serial No:	10/324,919	**Date:**	March 24, 2008
Filed:	December 20, 2002		
For:	CREATING TAXONOMIES AND TRAINING DATA IN MULTIPLE LANGUAGES		

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

REQUEST FOR CHANGE OF MAILING ADDRESS

Sir:

Applicants request that all future correspondence in connection with this application be directed and addressed to:

STEVEN FISCHMAN, ESQ.
SCULLY, SCOTT, MURPHY AND PRESSER, P.C.
Correspondence Address Customer No. 48233
Direct all telephone calls to: (516) 742-4343

Respectfully submitted:

Robert M. Trepp
Registration No 25,933

International Business Machines Corporation
Intellectual Property Law Dept.
1101 Kitchawan Road, Route 134
P.O. Box 218
Yorktown Heights, New York 10598
(914) 945-2885

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Keh-Shin Fu Cheng, et al	**Docket:**	YOR920020354US1 (22512)
Serial No:	10/324,919	**Date:**	March 24, 2008
Filed:	December 20, 2002		
For:	CREATING TAXONOMIES AND TRAINING DATA IN MULTIPLE LANGUAGES		

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

AUTHORIZATION TO ACT IN A REPRESENTATIVE CAPACITY

Sir:

The practitioner named below is authorized to conduct interviews and has the authority to bind the principal concerned. Furthermore, the practitioner is authorized to file correspondence in the above-identified application pursuant to 37 C.F.R. §1.34:

FRANK S. DIGIGLIO, Reg. No. 31,346; LEOPOLD PRESSER, Reg. No. 19,827; STEVEN FISCHMAN, Reg. No. 34,594; JOHN S. SENSNY, Reg. No. 28,757; EDWARD W. GROLZ, Reg. No. 33,705; and LESLIE S. SZIVOS, Reg. No. 39,394.

This is not a Power of Attorney to the above-named practitioners. Accordingly, the practitioners named above do **not** have authority to sign a request to change the correspondence address, a request for an express abandonment, a disclaimer, a power of attorney, or other document requiring the signature of the applicant, assignee of the entire interest or an attorney of record. If appropriate, a separate Power of Attorney to the above-named practitioners should be executed and filed in the United States Patent and Trademark Office.

Respectfully submitted:

Robert M. Trepp
Registration No 25,933

International Business Machines Corporation
Intellectual Property Law Dept.
1101 Kitchawan Road, Route 134
P.O. Box 218
Yorktown Heights, New York 10598
(914) 945-2885

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 13, 2006

TO SPE OF : ART UNIT 3743

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/324943 Patent No.: 6,962,006

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

SPE

3772

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 13, 2006

TO SPE OF : ART UNIT 3743

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/324943 Patent No.: 6,962,006

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: _____

3772

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Mar-07

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

COPY MAILED

MAR 12 2007

OFFICE OF PETITIONS

In re Application of :
Hansen, Woolard, Ju, Warrior, :
and Petracek : DECISION REFUSING STATUS
Application No. 10/324,979 : UNDER 37 CFR 1.47(a)
Filed: 19 December, 2002 :
Atty Docket No. VAL61131P0541US :

This is in response to the "ADDED PAGE TO COMBINED DECLARATION AND POWER OF ATTORNEY FOR SIGNATURE BY PERSON WITH SUFFICIENT PROPRIETARY INTEREST WHERE NO INVENTOR IS AVAILABLE TO SIGN AND ON BEHALF OF ALL THE INVENTOR(S) WHO REFUSE(S) TO SIGN OR CANNOT BE REACHED (37 C.F.R. § 1.47(b))" which is treated as a petition filed under 37 CFR 1.47(a)[1] on 13 February, 2006.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioners.

The petition is **DISMISSED**.

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

At the outset, the instant paper is not a proper petition because it has not been signed by all of the named inventors or a registered patent attorney.[2]

---

[1] A petition under 37 CFR 1.47(b) is inappropriate in this instance since all but one of the inventors has signed the declaration. A petition under 37 CFR 1.47(b) is only appropriate where none of the inventors will sign. Accordingly, the petition will be treated as a petition under 37 CFR 1.47(a).

[2] 37 CFR 1.33(b)(5). See MPEP 403

It is noted that a grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee;
(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and
(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1).

With regard to item (1), petitioners have not provided proof that the non-signing inventor was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[3] In order for a Rule 47 petition to be granted, the inventor **must** be afforded an opportunity to review the application.[4] Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

---

[3] MPEP 409.03(d).

[4] See In re Gray, 115 USPQ 80 (Comm'r Pat. 1956). The application papers must be sent or given to the non-signing inventor unless he or she refuses to accept delivery of the papers.

If the envelope sent to the non-signing inventor at the last known address is returned as undeliverable by the post office, petitioners should provide a copy of the envelope showing that the application was returned as undeliverable with any renewed petition. If the inventor refuses in writing to sign, a copy of that written refusal should be provided with any renewed petition. If the inventor refuses orally, petitioners should submit details of the refusal in an affidavit or declaration of facts by a person having first-hand knowledge of the refusal.

If repeated attempts to contact the non-signing inventor are unsuccessful, petitioners will have shown that despite diligent efforts, the inventor could not be reached.

The petition fee has been charged to counsel's deposit account as authorized on the "Response to Notice to File Missing Parts of Application" signed by registered practitioner Martin L. Katz, filed on 28 May, 2003.

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

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

By FAX: (571) 273-8300
Attn: Office of Petitions

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
500 W. MADISON STREET
SUITE 3800
CHICAGO IL 60661

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MAY 0 8 2007

OFFICE OF PETITIONS

In re Application of	:	
Hansen et al.	:	DECISION NOTING JOINDER OF
Application No. 10/324,979	:	INVENTOR AND PETITION
Filed: 19 December, 2002	:	UNDER 37 CFR 1.47(a) MOOT
Atty Dckt No. VAL61131P0541US	:	

Papers filed on 27 April, 2007, in response to the decision dismissing petition mailed on 12 March, 2007, included a Declaration signed by the previously non-signing inventor, Zhiguo Ju, in compliance with 37 CFR 1.63.

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

The petition fee was paid on 28 May, 2003. No additional petition fee is required. The duplicate fee paid with the present submission will be credited to counsel's deposit account.

This application will be referred to Technology Center Art Unit 3643 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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SUITE 3800
CHICAGO IL 60661

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JAN 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Silverman, Petracek, Ju, Heiman, :
and Warrior : DECISION REFUSING STATUS
Application No. 10/324,980 : UNDER 37 CFR 1.47(a)
Filed: 19 December, 2002 :
Attorney Docket No. VAL6131P0571US :

This is in response to the petition under 37 CFR 1.47(a), filed on 28 May, 2003. The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioners.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. 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.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on 19 December, 2002, without an executed oath or declaration. Accordingly, on 27 March, 2003, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application requiring an executed oath or declaration and a surcharge for its late filing.

In response, on 28 May, 2003 (certificate of mailing 22 May, 2003), petitioners filed, *inter alia*, the instant petition under 37 CFR 1.47(a), authorization to charge the petition fee and late-filing surcharge, and a declaration naming F. Paul Silverman, Peter D. Petracek, Zhiguo Ju, Daniel F. Heiman, and Prem Warrior as joint inventors and signed by all joint inventors except Ju on behalf of themselves and joint inventor Ju.

Petitioners assert that the non-signing joint inventor cannot be found or reached to sign the Declaration. Specifically, petitioners assert, that the non-signing inventor, has left the United States and moved to China without leaving a forwarding address. Petitioners further assert that they have been unable to obtain a forwarding address from his former U.S. employer.

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

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee;
(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and
(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1) and (5).

With regard to item (1), in the event that the application papers are returned as undeliverable, petitioners may show diligent efforts to locate the non-signing inventor by providing a copy of an envelope showing that a letter sent to the last known address of the non-signing inventor was returned as undeliverable by the post office. Details of the efforts made to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person having first-hand knowledge of the details. Additionally, if any inventor no longer lives at the last known address, petitioners may show diligent efforts by use of a national registry or other database to determine a current address for the non-signing inventor. If a more recent address is discovered, petitioners should send or give a copy of the application papers to the inventor at that address.

If repeated attempts to contact the non-signing inventor are unsuccessful, petitioners will have shown that despite diligent efforts, the inventor could not be reached.

Petitioners have not shown that diligent efforts were made to contact the non-signing inventor. If the inventor is believed to be living in China, petitioners should attempt to determine an address for him in China, and sent the application papers to him

at that address. Details of the efforts made to locate the inventor should be provided with any renewed petition. A copy of the letter transmitting the application papers to the non-signing inventor should be provided with any renewed petition. If the application papers are returned as unsigned, a copy of the envelope showing that a letter sent to the last known address of the non-signing inventor was returned as undeliverable by the post office should be included with any renewed petition.

If the inventor refuses in writing to sign, a copy of that written refusal should be provided with any renewed petition. If the inventor refuses orally, petitioners should submit details of the refusal in an affidavit or declaration of facts by a person having first-hand knowledge of the refusal.

With regard to item (5), if a different last known address is determined for the non-signing inventor, that address should be provided with any renewed petition.

The present petition under 37 CFR 1.47(a) does not appear to have been signed by a registered practicioner. Petitioners are reminded that any petition must be signed by a registered attorney or agent in accordance with 37 CFR 1.33(b).[1] Nevertheless, as the cover letter accompanying the petition and associated papers filed on 28 May, 2003, has been signed by a registered practitioner, and the petition is referenced therein, the petition is considered to have been ratified by the accompanying cover letter.

The petition fee of $130.00 has been charged to counsel's deposit account, No. 23-0785 as authorized on the transmittal letter filed on 28 May, 2003.

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

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

By FAX: (703) 872-9306
Attn: Office of Petitions

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[1] See MPEP 714.01(a).

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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CHICAGO IL 60661

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APR 28 2005

OFFICE OF PETITIONS

In re Application of :
Silverman, Petracek, Ju, Heiman, :
and Warrior : DECISION NOTING JOINDER OF
Application No. 10/324,980 : INVENTOR AND PETITION UNDER
Filed: 19 December, 2002 : 37 CFR 1.47(a) MOOT
Attorney Docket No. VAL6131P0571US :

Papers filed on 1 April, 2005, in response to the decision dismissing petition mailed on 6 January, 2005, included a one (1) month extension of time and a Declaration signed by the previously non-signing inventor, Zhiguo Ju, in compliance with 37 CFR 1.63.

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

This application will be referred to the Publishing Division for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

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MAR 1 3 2006

OFFICE OF PETITIONS

In re Patent of :
Liu et al. :
Application No. 10/325,001 : Decision
Filing Date: December 20, 2002 :
Attorney Docket No. 58376US002 :

This is a decision on the petition under 37 C.F.R. § 1.183, filed January 17, 2006, to waive the rules and accept the correction of the assignee data on the front page of the above-identified patent. The petition is also being treated as a request under 37 CFR 3.81 to accept the correction of the assignee data.

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

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

Effective June 25, 2004, the practice relating to issuance of a patent to an assignee was modified by requiring that, after payment of an issue fee, a request for a certificate of correction must be filed in order to obtain issuance of the patent to an assignee. Thus, where the assignment data is submitted after payment of the issue fee, the patent document will not include the assignment information. Therefore, as 37 CFR 3.81(b) was modified to provide for issuance of the patent to the assignee, the practice of waiving the rule (37 CFR 3.81(a)) under 37 CFR 1.183 is longer necessary and has been eliminated.

37 CFR 3.81(b), as modified, reads:

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

In other words, the request under 37 CFR 3.81(b) will be granted when:

(1) a request under 37 CFR 3.81 and the fee set forth in 37 CFR 1.17(i) are filed,
(2) the assignment was submitted for recordation prior to issuance of the patent, and
(3) a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a) are submitted.

Petitioner has not met requirement (3) set forth above. Therefore, the request under 37 CFR 3.81 must be dismissed.

Any request for reconsideration should include a request for certificate of correction and the required fee set forth in 37 CFR 1.20(a).

A fee has not been charged to petitioner's deposit account for the petition under 37 CFR 1.183 since the petition under 37 CFR 1.183 is unnecessary. A fee of $130 has been charged for the request under 37 CFR 3.81.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Request under 37 CFR 3.81."

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

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

By facsimile: (571) 273-8300
Attn: Office of Petitions

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7052532 B1
Ser. No. : 10/325,001
Inventor(s) : LIU, Z. GERALD
Issued : 05/30/06
Title : **HIGH TEMPERATURE NANOFILTER, SYSTEM AND METHOD**
Docket No. : **4695-00070**

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

Lamonte M. Newsome

Lamonte M. Newsome
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 #112 or (703) 308-8309

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

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PO Box 33427
St. Paul, MN 55133-3427

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MAY 19 2008

OFFICE OF PETITIONS

In re Patent of Liu et al. :
Patent No. 7,052,532 :
Issue Date: May 30, 2006 :
Application No. 10/325,001 :
Filing Date: December 20, 2002 :
Attorney Docket No. 58376US002 :

Letter

This is a decision in response to the request under 37 CFR 3.81 filed January 31, 2007, to accept the correction of the assignee data on the front page of the above-identified patent. The Office regrets the delay in the issuance of the instant letter.

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

Facts:

Patentees filed a paper on January 17, 2006, requesting the correction of the assignee data. The paper was treated as a request under 37 CFR 3.81, and the request was dismissed because the request was not accompanied by a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a). The fee of $130 was charged to petitioner's deposit account for the request under 37 CFR 3.81.

A certificate of correction, the required fee of $100, and a request under 37 CFR 3.81 were filed May 8, 2006. The Office failed to recognize the existence of the request under 37 CFR 3.81 and issued a letter denying the request for the certificate of correction based on an incorrect assertion the certificate of correction was not accompanied by a request under 37 CFR 3.81. The Office also incorrectly charged $130 to petitioner's deposit account for the fee for a request under 37 CFR 3.81 even though the fee had already been charged in response to the previous request.

The instant petition was filed January 31, 2007.

Discussion:

37 CFR 3.81(b) reads:

> Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the

> name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

In other words, the request under 37 CFR 3.81(b) will be granted when:

(1) A request under 37 CFR 3.81 and the fee set forth in 37 CFR 1.17(i) are filed,
(2) The assignment was submitted for recordation prior to issuance of the patent, and
(3) A request for a certificate of correction and the fee set forth in 37 CFR 1.20(a) are submitted.

Patentees have met the requirements set forth above. Therefore, the request is granted.

The Office previously charged the $130 fee for the request twice to petitioner's deposit account. Therefore, the Office has credited $130 back to the deposit account.

The Certificates of Correction Branch will be informed of the instant decision and the requested certificate of correction will be issued in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Carr & Ferrell LLP
2200 Geng Road
Palo Alto, CA 94303

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MAY 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Alain Rossmann	:	
Application No. 10/325,013	:	DECISION ON PETITION
Filed: December 20, 2002	:	TO WITHDRAW
Attorney Docket No. SS-024	:	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, 2006.

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

A review of the file record indicates that the power of attorney to Carr & Ferrell LLP has been revoked by the assignee of the patent application on March 2, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Sterne, Kessler, Goldstein & Fox P.L.L.C.**
1100 New York Avenue, N.W.
Washington, DC 20005

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090413

DATE : May 10, 2009

TO SPE OF : ART UNIT 1651

SUBJECT : Request for Certificate of Correction on Patent No.: 7247609

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:

See Request of 11/30/2007.

Cecilia Tsang

SPE: Cecilia Tsang **Art Unit** 1651

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MAY 25 2007

OFFICE OF PETITIONS

In re Application of :
Dale A. Grove, III et al :
Application No. 10/325,040 : DECISION GRANTING PETITION
Filed: December 19, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 25221A :

This is a decision on the petition under 37 CFR 1.137(b), filed January 31, 2007 and supplemented on May 24, 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 RCE, amendment and an terminal disclaimer; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of April 18, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 1762

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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STANDARDS
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MS LEGL2
PLANO TX 75075

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OFFICE OF PETITIONS

In re Application of :
Yang et al. : DECISION ON
Application No. 10/325,057 : PETITION
Filed: December 20, 2002 :
Attorney Docket No. 139060 :

This is a decision on the PETITION UNDER 37 C.F.R. § 1.47(a) TO ACCEPT SIGNATURE BY A JOINT INVENTOR ON BEHALF OF NON-SIGNING JOINT INVENTOR WHO REFUSES TO JOIN OR CANNOT BE REACHED filed June 20, 2007, requesting waiver of § 1.131's requirement that all of the inventors sign the declaration of prior inventorship.

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

The above-identified application was filed on December 20, 2002, with a 37 CFR 1.63 declaration signed by joint inventor Mingguey Yang and Vinod Choyi. On January 26, 2007, a non-final Office action was mailed in this application. This Office action set a three (3) month shortened statutory period for reply, with extensions of time obtainable under § 1.136(a).

On June 20, 2007, petitioner responded with *inter alia* the instant petition and an accompanying petition and fee for extension of time for response within the second month.

The petition includes a DECLARATION UNDER 37 C.F.R. §1.131 by joint inventor Choyi on behalf of himself and on behalf of joint inventor Yang. The petition includes the Declaration of Melanie

Murdock to show the diligent efforts made to reach and obtain the cooperation of inventor Yang for purposes of signing the Declaration Under 37 C.F.R. § 1.131.

37 CFR 1.131 states, in pertinent part:

> When any claim of an application or a patent under reexamination is rejected, the inventor of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based.

In addition, the Manual of Patent Examining Procedure states that "an application or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection."

Here, there has not been a party qualified under 37 CFR 1.42, 1.43, or 1.47. In addition, applicant does not contend that less than all of the named inventors of the application invented the subject matter of the claims under rejection. Accordingly, the proper parties to sign the 37 CFR 1.131 declaration include all of the inventors.

In order for a petition under 37 CFR 1.183 to be granted to waive this requirement that joint inventor Yang sign the § 1.131 declaration, petitioner must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

On instant petition, petitioner has set forth the steps taken to obtain inventor Yang's signature on the § 1.131 declaration. The petition includes a certified return receipt signed by Mingguey Yang for the delivery of the declaration. Petitioner has shown that inventor Yang, by his conduct in not responding to the presentation of the declaration, has refused to sign the § 1.131 declaration. The declaration presented is signed by inventor Choyi. Under the circumstances, it is concluded that petitioner has demonstrated that this is an extraordinary situation, warranting waiver of the rules.

The petition is granted to the extent that the 37 CFR 1.131 declaration may be entered, despite the fact that its requirement that all of the inventors sign the declaration has not been satisfied. This is not a decision on the merits of the 1.131 declaration.

Receipt of the $400 (not $130) petition fee is acknowledged.

The application is being forwarded to Technology Center 2619 for consideration by the examiner on the merits of the reply and the 37 CFR 1.131 declaration, filed June 20, 2007.

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
Washington, D.C. 20231
www.uspto.gov

Paper No. 3

MARK E FEJER
GAS TECHNOLOGY INSTITUTE
1700 SOUTH MOUNT PROSPECT ROAD
DES PLAINES IL 60018

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APR 2 2 2003

OFFICE OF PETITIONS

In re Application of :
Chen, et al. :
Application No. 10/325,082 : DECISION ACCORDING STATUS
Filed: December 20, 2002 : UNDER 37 CFR 1.47(a)
Title: AUTOMATIC PORTABLE :
FORMALDEHYDE ANALYZER

This is in response to the petition under 37 CFR 1.47(a), filed December 20, 2002.

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

The above-identified application was filed on December 20, 2002, without a fully executed oath or declaration. Concurrent with the filing of the application, applicant filed a petition under 37 CFR 1.47(a), to have joint inventors James Pey Chen, Paul Drayton, and John Charles Wagner make the application for patent on behalf of themselves and on behalf of joint inventors Jim M. McCarthy and Jeffrey A. Panek, who have refused to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

On petition, attorney Mark E. Fejer included copies of cover letters dated September 13, 2002 and November 12, 2002, addressed to the last known address of McCarthy and Panek, respectively, and transmitting the application papers. According to Fejer, as of the filing of the application, no executed declaration from McCarthy or Panek has been received. While the petition did not give the last known addresses for McCarthy or Panek, the last known addresses are being interpreted as being the addresses on the declaration and the cover letters. Petitioner should inform the Office if this interpretation is not correct.

The instant petition has been reviewed and determined to be in compliance with 37 CFR 1.47(a). The declaration submitted with the petition has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known addresses supplied on petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 2800, Group Art Unit 2858, for docketing.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JIM M MCCARTHY
18363 MEANDER DR
GRAYSLAKE IL 60030

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APR 2 2 2003

OFFICE OF PETITIONS

In re Application of :
Jim M. McCarthy and Jeffrey A. Panek :
Application No. 10/325,082 :
Filed: December 20, 2002 : LETTER
Title: AUTOMATIC PORTABLE FORMALDEHYDE :
ANALYZER

Dear Mr. McCarthy:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 USC 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, agent of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (703) 305-0272. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

Mark E. Fejer
Gas Technology Institute
1700 South Mount Prospect Road
Des Plaines, Illinois 60018
(847)768-0832

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JEFFREY A PANEK
316 WOODED KNOLL DRIVE
CARY IL 60013

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APR 2 2 2003

OFFICE OF PETITIONS

In re Application of :
Jim M. McCarthy and Jeffrey A. Panek :
Application No. 10/325,082 :
Filed: December 20, 2002 :
Title: AUTOMATIC PORTABLE FORMALDEHYDE : ANALYZER

LETTER

Dear Mr. Panek:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 USC 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, agent of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (703) 305-0272. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

Mark E. Fejer
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1700 South Mount Prospect Road
Des Plaines, Illinois 60018
(847)768-0832

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAY 13 2005

Law Offices of John D. Gugliotta, PE, Esq.
202 Delaware Building
137 South Main Street
Akron OH 44308

In re Application	:	
Edward Manougian	:	
Serial No.: 10/325,092	:	DECISION ON PETITION
Filed: December 20, 2002	:	
For: Human Airway Clearing Tool	:	

This is in response to applicants' petition filed October 18, 2004 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 Richard Bertsch by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-3750 or by facsimile transmission at (703) 872-9306.

Richard A. Bertsch, Director
Technology Center 3700

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

BUCKLEY, MASCHOFF & TALWALKAR LLC
50 LOCUST AVENUE
NEW CANAAN CT 06840

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APR 19 2007

OFFICE OF PETITIONS

In re Application of
James E. Jaussi et al.
Application No. 10/325,097
Filed: December 20, 2002
Attorney Docket No.: P15064

ON PETITION

This is a decision on the petition filed October 12, 2004 to withdraw the holding of abandonment for the above-identified application. The petition is being treated under 37 CFR 1.181.

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

The application was held abandoned on June 2, 2004, for failure to timely submit a timely response to the non-Final Office Action mailed March 1, 2004, which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed October 1, 2004.

Petitioner asserts that a response was filed and, in support, petitioner has submitted, *inter alia*, a copy of the response in the form of an amendment and a post card receipt date stamped March 29, 2004 by the USPTO.

A search of the application file and the USPTO records reveals that in fact, an amendment was filed on March 29, 2004. Accordingly, the Notice of Abandonment mailed October 1, 2004 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter will be referred to Technology Center 2819 for appropriate action on the amendment filed March 29, 2004, a copy of which was submitted upon petition.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MONSANTO COMPANY
800 N. LINDBERGH BLVD.
ATTENTION: GAIL P. WUELLNER, IP PARALEGAL, (E2NA)
ST. LOUIS MO 63167

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MAR 25 2008

OFFICE OF PETITIONS

In re Application of :
Conner et al. :
Application No. 10/325,107 : DECISION ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. 38-21(51703)B :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 12, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a complete reply to the non-final Office Action of June 28, 2005. An amendment and two-month extension of time were filed on November 23, 2005. In response to the amendment a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed on December 2, 2005, which set an extendable reply period of one month. An amendment and two-month extension of time were filed on February 13, 2006. A Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed on May 4, 2006. A timely reply to the second Notice of Non-Compliant Amendment was not received. This application became abandoned on June 5, 2006. A Notice of Abandonment was mailed on December 19, 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 $1540.00, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1638 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant
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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ROPES & GRAY LLP
PATENT DOCKETING 39/41
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

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NOV 10 2008

In re Application of :
Gellman, et al. :
Application No. 10/325,125 : DECISION ON PETITION
Filed: December 19, 2002 :
Attorney Docket No. MIY-P01-022 :

This is a decision on the petition, filed September 25, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of January 22, 2008, which set a three month shortened statutory period for reply. Notice of Abandonment was mailed July 31, 2008.

Petitioners state that a reply was timely filed and have submitted as proof of submission and proof of USPTO receipt of the reply a copy of a return postcard dated July 25, 2008 acknowledging receipt of the reply. A copy of the previously submitted reply accompanies the petition. The reply bears a certificate of mailing date of July 22, 2008 in accordance with 37 CFR 1.8.

The reply to the non-final Office action, received July 25, 2008, has been located in the official application file.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 3731 for appropriate action in the normal course of business on the reply to the non-final Office action.

Alesia M. Brown
Petitions Attorney
Office of Petitions

OIPE JC41 SEP 07 2004 PATENT & TRADEMARK OFFICE

Ref. Dec. 1746
JFW

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF	:	Robert R. Flynn
FOR	:	**WATER TOWELETTES**
SERIAL NO.	:	10/325,126
FILED	:	December 19, 2002
LAST OFFICE ACTION	:	May 26, 2004
EXAMINER	:	Sharidan Carrillo
GROUP ART UNIT	:	1746
ATTORNEY DOCKET NO.	:	31415.30003

Approved
Jacqueline M. Stone, Director
Technology Center 1700
10/29/04

Akron, Ohio 44308-1471
September 2, 2004

****

CERTIFICATE OF MAILING

I hereby certify that this **APPLICATION TO WITHDRAW AS ATTORNEY OF RECORD ACCORDING TO 35 C.F.R. § 1.36** 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 the following date:

9/2/04
Date

Connie J. Nutter
Connie J. Nutter

****

APPLICATION TO WITHDRAW AS ATTORNEY OF RECORD ACCORDING TO 35 C.F.R. § 1.36

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

Pursuant to 35 C.F.R. § 1.36, the undersigned, Timothy D. Bennett, hereby requests permission to withdraw as attorney herein.

The reasons for my requested withdrawal are contained in detail in the enclosed letter to Mr. Robert A. Flynn, but can be summarized as (1) the applicant has generally refused to correspond or speak with me concerning his applications or his failure to pay my invoices; and (2) by his conduct the applicant is making it unreasonably difficult for me to carry out my representation of him and employment by him, effectively.

I have delivered to the client all files for which I was responsible and information he has given to me. Thereby, I have effectively empowered him to carry on his own prosecution of the applications, whether pro se or by hiring another intellectual property attorney. The time for response in each of the applications is greater than thirty days. As such, I believe I have left the applicant in a condition to carry on the prosecution of his applications without me. Therefore, I believe I have complied with all the obligations placed upon me by the U.S. Patent and Trademark Office to allow such withdraw and believe I am entitled to the application I request.

I hereby revoke all Associate Powers of Attorney previously granted.

Please send all further correspondence directly to the inventor at the address below:

Mr. Robert R. Flynn
8490 Royal Haven Drive
North Royalton, OH 44133

Respectfully yours,

BROUSE MCDOWELL

Sept 2, 2004
Date

Timothy D. Bennett

Timothy D. Bennett
Reg. No. 42,312
106 S. Main Street, Ste. 500
Akron, Ohio 44308-1471

Telephone No.: (330) 535-5711
Fax No.: (330) 253-8601
#585688 v1

OIPE JC41 SEP 07 2004 PATENT & TRADEMARK OFFICE

BROUSE McDOWELL
A LEGAL PROFESSIONAL ASSOCIATION

■ Heather M. Barnes
Attorney at Law
hbarnes@brouse.com

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Facsimile: 330.535.5000

1001 Lakeside Avenue
Suite 1600
Cleveland, OH 44114-1151
Phone: 216.830.6830
Facsimile: 216.830.6807

Internet: www.brouse.com

September 2, 2004

VIA CERTIFIED MAIL

Mr. Robert R. Flynn
8490 Royal Haven Drive
North Royalton, OH 44133

Re: U.S. Utility Patent Application
WATER TOWELETTES
Serial No.: 10/325,126
Filed: December 19, 2002
Our Ref.: 31415.30003

Dear Bob:

I have been trying to contact you numerous times throughout the last couple months in order to discuss the office action we received for your patent application. I wanted to take the opportunity to explain why it would be extremely difficult to obtain any meaningful patent coverage for your invention. Of course, I wanted to provide this to you at no cost. Because you have not returned my phone calls, I have been left with no choice but to formally withdraw before the U.S. Patent and Trademark Office. Although we are withdrawing our representation before the U.S. Patent and Trademark Office, this does not relieve you of your financial obligation to Brouse McDowell for past services. Our records indicate that your outstanding balance is $198.65.

Enclosed you will find a copy of your file. It was a pleasure working with you for the brief period we did. If you care to discuss this matter further, please do not hesitate to contact me.

Very truly yours,

BROUSE McDOWELL

Heather M. Barnes

HMB/cjn
Enclosures
#585666 v1

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. 10

Gregory B. Schiller, Esq
Zeisler & Zeisler P.C.
558 Clinton Avenue
P.O. Box 3186
Bridgeport, CT 06605-0156

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JUL 0 1 2004

OFFICE OF PETITIONS

In re Application of
Azzam, et al.
Application No.: 10/325,147 : ON PETITION
Filed: December 20, 2002
Attorney Docket No: 5166-03-1

This is in response to the petition under 37 CFR 1.137(b) filed June 16, 2004.

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

A "Notice to File Corrected Application Papers" (the "Notice") was mailed on March 12, 2003, allowing a two-month period for reply. Extension of time were available pursuant to 37 CFR 1.136(a). The Notice required replacement drawings to be filed. A proper response was not received within the allowable period, and the application became abandoned on May 13, 2003.

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

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

The replacement drawings filed June 16, 2004, are noted and made of record.

The preliminary amendment also filed June 16, 2004, is noted.

Deposit account 13-0235 will be charged $665.00 for the instant petition fee.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Cc:
Kevin H. Vanderleeden
McCormick, Paulding & Huber, LLP
CityPlaceII
185 Asylum Street
Hartford, Connecticut 06103-4102

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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RHODIA INC.
8 CEDAR BROOK DRIVE
CN 7500
CRANBURY, NJ 08512

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JAN 0 5 2009

OFFICE OF PETITIONS

In re Application of :
Seren Frantz et al :
Application No. 10/325,150 : ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. RD 02007 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 21, 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 and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

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

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.

Irvin Dingle
Petition 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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Paper No. 8

MORRIS E. COHEN
SUITE 217
1122 CONEY ISLAND AVENUE
BROOKLYN, NY 11230-2345

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JUL 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Morris S. Cohen et al :
Application No. 10/325,174 : ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. 4069.005.300 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 28, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed April 29, 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 June 30, 2003.

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

The application file is being forwarded to the Office of Initial Patent Examiantion.

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

MORRIS E. COHEN
SUITE 217
1122 CONEY ISLAND AVENUE
BROOKLYN, NY 11230-2345

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MAY 0 4 2005

OFFICE OF PETITIONS

In re Application of
Morris S. Cohen et al
Application No. 10/325,174
Filed: December 20, 2002
Attorney Docket No. 4069.005.300

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition, filed March 29, 2005, which is being treated under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6), 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 concurrently filed amendment.

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant 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)(iii) and 1.78(a)(5)(iii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an amendment

to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t); 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.

As authorized, the $1,370 fee required by 37 CFR 1.78(a)(3)(ii) and 37 CFR 1.78(a)(6)(ii) will be charged to petitioner's Deposit Account No. 50-1025.

Any questions concerning this matter may be directed to Wan Laymon at (571) 272-3220. 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 2835 for appropriate action on the amendments submitted March 29, 2005, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed PCT application, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LADAS & PARRY
26 WEST 61ST STREET
NEW YORK, NY 10023

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OFFICE OF PETITIONS

In re Application of

Sirpagada, et al.

Application No. 10/325,176

Filed: December 20, 2002

Attorney Docket No. U 014359-9

: DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), November 15, 2006, and in duplicate on December 8, 2006, 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 August 11, 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 12, 2006. A Notice of Abandonment was mailed on November 27, 2006.

The issue fee and publication fee were received on November 15, 2006.

The application is being forwarded to the Office of Patent Publications for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MAR 2 8 2007

OFFICE OF PETITIONS

LADAS & PARRY
26 WEST 61ST STREET
NEW YORK NY 10023

In re Application of :
Siripragada, et al. : ON PETITION
Application No. 10/325,176 :
Filed: December 20, 2002 :
Attorney Docket No. U014359-9 :

This is a decision on the petition under 37 CFR 1.55(a)(2) filed February 27, 2007, for entry of priority papers submitted after the date the issue fee was paid.

The petition is **GRANTED.**

Receipt is acknowledged of papers submitted under 35 USC 119.

The priority papers are accepted as timely filed. The papers have been placed of record in the file.

Petitioner is advised that the rule affecting the submission of a claim for priority or a certified priority document under 37 CFR 1.55(a) was changed effective November 7, 2000. In effect, the Office will permit applicants to file a priority claim or certified priority document with the processing fee set forth in 37 CFR 1.17(i) between the date the issue fee is paid and the date a patent is issued. The Office will, however, merely place such submission in the application file but will not attempt to determine whether the applicant has met the conditions of 35 USC 119(a)-(d) to make the priority claim nor include the priority information in the text of the patent. In such a situation, the patent will not contain the priority claim information. The patentee may request a certificate of correction under 35 USC 255 and 37 CFR 1.322 and a determination of entitlement for such priority will be made after the patent is granted. See Federal Register/Vol. 65, No. 175, September 8, 2000, page 54622.

Any questions concerning this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222. Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificate of Corrections Branch at (703) 305-8305.

Charles A. Pearson
Director
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 13, 2007

TO SPE OF : ART UNIT 1616

SUBJECT : Request for Certificate of Correction for Appl. No. 10/325176 patent no.7223881

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: _____

JOHANN RICHTER
SUPERVISORY PATENT EXAMINER
GROUP 1200

SPE 1616 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

Barry R. Lipsitz
Law Offices of Barry R. Lipsitz
755 Main Street
Building No. 8
Monroe, CT 06468

MAIL

JUN 28 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Donald E. Brooks, et al. :
Application No. 10/325,214 :
Filed: December 20, 2002 :
For: INTERFACE FOR VOUCHER AND COUPON PRINTING :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed April 19, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

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

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BARRY R. LIPSITZ
LAW OFFICES OF BARRY R. LIPSITZ
755 MAIN STREET
BUILDING NO. 8
MONROE CT 06468

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APR 22 2005

OFFICE OF PETITIONS

In re Application of :
Donald E. Brooks et al :
Application No. 10/325,214 :
Filed: December 20, 2002 :
Attorney Docket No. TRA-103 :

ON PETITION

This is a decision on the petition, filed April 21, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on April 8, 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 2624 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

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

George A. Coury
BACHMAN & LaPOINTE, P.C.
Suite 1201
900 Chapel Street
New Haven, CT 06510-2802

Mail Date: 04/21/2010

Applicant	: Nileshkumar T. Dave	: DECISION ON REQUEST FOR
Patent Number	: 7579100	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/325,237	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/20/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1071** 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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THE DOW CHEMICAL COMPANY
INTELLECTUAL PROPERTY SECTION
P.O. BOX 1967
MIDLAND, MI 48641-1967

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DEC 2 3 2004

OFFICE OF PETITIONS

In re Application of :
Edwards, Christopher M. :
Application No. 10/325,239 : ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. 62257A :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 14, 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 February 9, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on May 10, 2004. A Notice of Abandonment was mailed November 2, 2004.

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

This matter is being referred to Technology Center 1700 for examination on the merits.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WELSH & KATZ, LTD
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606

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AUG 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Randal Hauptmann et al :
Application No. 10/325,265 :
Filed: December 19, 2002 :
Attorney Docket No. BAH-101.2 (7513/88212) :

ON PETITION

This is a decision on the petition, filed August 1, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on July 11, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1654 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).

SPE D. WU

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/5/07

TO SPE OF : ART UNIT 1713

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/325,226 Patent No.: 6963007

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: Merely printing errors

SPE _____ 1713 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

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JUN 21 2006

OFFICE OF PETITIONS

In re Application of :
Steven Joseph Hamrock et al. :
Application No. 10/325,278 : ON PETITION
Filed: December 19, 2002 :
Attorney Docket No.: **57929US002** :

This is a decision on the petition filed May 4, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed September 27, 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 December 28, 2005. Accordingly, the Notice of Abandonment was mailed April 4, 2006.

The petition fee in the amount of $1500 has been charged to deposit account no. 13-3723.

This matter is being referred to Technology Center 2193 for appropriate action on the amendment filed April 17, 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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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

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OCT 12 2007

OFFICE OF PETITIONS

In re Application of :
Hamrock, et al. :
Application No. 10/325,278 : ON PETITION
Filed: December 19, 2002 :
Attorney Docket No. 57929US002 :
For: POLYMER ELECTROLYTE MEMBRANE

This is a decision on the petition, filed June 20, 2007, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the September 7, 2006 non-final Office action. No response being received and no extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on December 8, 2006. A Notice of Abandonment was mailed on March 23, 2007.

Applicants have submitted an amendment and two terminal disclaimers in reply to the September 7, 2006 non-final Office action, a proper statement of the unintentional nature of the delay in responding to the September 7, 2006 non-final Office action, and authorization to charge required fees to petitioners' deposit account. Deposit account no. 13-3723 will be charged a $1,500.00 petition fee and two $130.00 terminal disclaimer fees. All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision, the application will be returned to Technology Center AU 1745 for consideration of the amendment filed on June 20, 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

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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SEYFARTH SHAW, LLP
131 S. DEARBORN ST., SUITE2400
CHICAGO, IL 60603-5803

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DEC 0 6 2006

OFFICE OF PETITIONS

In re Application of :
Cheol Soo Park :
Application No. 10/325,288 : ON PETITION
Filed: December 19, 2002 :
Attorney Docket No. TJK/316 :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on August 23, 2006, to revive the above-identified application.

The above application became abandoned for failure to reply to the final Office action mailed October 1, 2004. A Notice of Abandonment was mailed on May 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 a Request for Continued Examination (RCE) under 37 CFR 1.114, with the $790 filing fee and an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 2814.

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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Paper No. 6

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

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JUN 23 2003

OFFICE OF PETITIONS

In re Application of :
Minor, et al. :
Application No. 10/325,309 : DECISION GRANTING
Filed: December 20, 2002 : PETITION
Attorney Docket No. CH2416USDIV4 :
For: HYDROFLUOROCARBON
COMPOSITIONS

This is a decision on the petition under 37 CFR 1.182, filed April 21, 2003, to accord the above-identified application a filing date of December 20, 2002.

On December 20, 2002, the application was deposited.

On January 30, 2003, the Office of Initial Patent Examination mailed a Notice stating that drawings were missing and that a filing date would be accorded upon receipt of the omitted drawings.

In response, the present petition was timely filed. Petitioners request that drawings from parent application no. 09/384,599, now U.S. Patent No. 6, 531,441, be transferred to this application file based on a hardship rationale. In the alternative, petitioners request that the application be accorded a December 20, 2002 filing date because petitioners incorporated by reference the entire disclosure of the prior application when the above-identified application was deposited. Finally, petitioners request that if all previous arguments fail, that the Office accord a December 20, 2002 filing date because drawings are not necessary for the understanding of the invention.

The issue is whether or not the drawings were present in the Office on December 20, 2002. Petitioners cannot request a transfer of drawings and avoid the fact that the drawings were not among the application papers filed on December 20, 2002. Furthermore, another avenue of relief is available to petitioners. It would be improper to grant the petition under 37 CFR 1.182 to transfer drawings in this situation.

It is noted that the Utility Patent Application Transmittal sheet incorporated by reference the entire disclosure of the parent application. The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted.

Based on the incorporation by reference, it appears that the drawings were present in the Office on December 20, 2002, albeit in the file of another application, i.e., then application No. 09/384,599. Therefore, on petition, the application may be accorded the requested filing date of December 20, 2002.

In view of the above, the petition is **granted**. It is unnecessary to reach the merits of petitioners'

third argument. The drawings found in the copy of patent no. 6,531,441 which were submitted with the instant petition will be used for examination purposes.

The petition fee of $130 will not be refunded since the petition was required to accord the application the requested filing date.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of **December 20, 2002**, using the application papers filed on December 20, 2002 and the drawings found in the copy of patent no. 6,531,441 which were submitted on April 21, 2003.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

OIPE JC48 JUL 22 2004 PATENT & TRADEMARK OFFICE

1762

IN THE UNITED STATES PATENT OFFICE

Art Unit:	1762
Examiner:	
Applicant:	Murosako
Assignee:	Holding Tank, Inc.
Serial No:	10/325,321
Filed:	December 19, 2002
Entitled:	NON-CONTACT PARTICLE ACCELERATOR
Docket No:	42050-002
Date:	July 20, 2004

PETITION FOR WITHDRAWAL OF ATTORNEY OF RECORD PURSUANT TO 37 C.F.R. § 10.40(b)(4) OR, ALTERNATIVELY, 37 C.F.R. § 10(c)(1)(vi)

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

Sir:

We respectfully request the approval of the Commissioner to withdraw as attorneys of record for the Assignee. The Assignee has informed us that its business is dissolving and is unable to pay any current outstanding attorneys fees and instructed us to terminate any work. Therefore, we are requesting mandatory withdrawal pursuant to 37 C.F.R. § 10.40(b)(4) or, alternatively, permissive withdrawal pursuant to 37 C.F.R. § 10.40(c)(1)(vi). All papers and property in our file concerning the prosecution of the application to date have been previously delivered to Assignee.

Please address all further correspondence relating to the above-identified application to:

Michael T. Baden
C/o Holding Tank, Inc.
2100 SE Lake Rd., Suite 3
Milwaukie, OR 97222

I hereby certify that this correspondence is being deposited today 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.

July 20, 2004
Date

Melanie Lauger

Respectfully submitted,

By: _____

Kathleen T. Petrich, Reg No. 37,205
Stokes Lawrence, P.S.
800 Fifth Avenue, Suite 4000
Seattle, WA 98104-3179
T: 206.626-6000
F: 206.464-1496
E-mail: kathleen.petrich@stokeslaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEC -1 2004

In re Application of	:	
James K. Murosako	:	
Serial No. 10/325,321	:	DECISION ON PETITION
Filed: December 19, 2002	:	TO WITHDRAW AS ATTORNEY
For: NON-CONTACT PARTICLE	:	
ACCELERATOR FOR BLASTING	:	
APPLICATIONS	:	

By papers filed on July 22, 2004, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

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

Michael T. Baden
C/o Holding Tank, Inc.
2100 SE Lake Road, Suite 3
Milwaukie, OR 97222

E. Rollins-Cross, Director
Technology Center 3700

Kathleen T. Petrich
Stokes Lawrence P.S.
800 Fifth Avenue, Suite 4000
Seattle, WA 98104-3179

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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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

Mail Date: 04/28/2010

Applicant	: Keith Joseph Stone	: DECISION ON REQUEST FOR
Patent Number	: 7655176	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/325,323	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/20/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **521** 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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MICHAEL CHAN
NCR CORPORATION
1700 SOUTH PATTERSON BLVD.
DAYTON OH 45479-0001

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DEC 27 2004

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Gallo-Hendrikx :
Application No. 10/325,345 :
Filed: December 19, 2002 :
Attorney Docket No. 11121.00 :

This is a decision on the petition, filed December 22, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 8, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2876 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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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).

Practitioner's Docket No. 11121.00 **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Dale Edward Gallo-Hendrikx
Application No.: 10/325,345 Group No: 2876
Filed: December 19, 2002 Examiner: Lisa M. Caputo
For: DOCUMENT PATH SELECTOR APPARATUS FOR USE IN A SELF-SERVICE TERMINAL
Date of mailing "Notice of Allowance and Base Issue Fee Due" February 3, 2005
Batch No. None Indicated

FAX RECEIVED
DEC 22 2004
OFFICE OF PETITIONS

Mail Stop 313(c)
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

WARNING: Petitions for express abandonment of patent applications after payment of the issue fee is decided in the Office of the Deputy Commissioner for Patent Examination Policy. M.P.E.P., 8th Edition.

"Petitions to have an application withdrawn after payment of the issue fee should be directed to the Office of Petitions (see M.P.E.P. § 1002.02(b))" M.P.E.P., 8th Edition.

NOTE: Any petition to withdraw an application from issue after payment of the issue fee should be either submitted by facsimile or hand-carried to the Office of Petitions, M.P.E.P., 8th Edition.

PETITION FOR WITHDRAWAL FROM ISSUE AND ABANDONMENT —ISSUE FEE PAID—TO PERMIT CONSIDERATION OF AN INFORMATION DISCLOSURE STATEMENT UNDER § 1.97 IN A CONTINUING APPLICATION (37 C.F.R. § 1.313(c)(3))

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*
*(When using Express Mail, the Express Mail label number is **mandatory**; Express Mail certification is optional.)*

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

☐ deposited with the United States Postal Service in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

37 C.F.R. § 1.8(a)

☐ with sufficient postage as first class mail.

37 C.F.R. § 1.10 *

☐ as "Express Mail Post Office to Addressee"
Mailing Label No. _____ **(mandatory)**

TRANSMISSION

☒ facsimile transmitted to the Patent and Trademark Office, ~~(703)~~ 571-273-0025

Signature

Date: December 22, 2004

Shirley Doll
(type or print name of person certifying)

** Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.*

12/27/2004 AKELLEY 00000010 10325345
01 FC:1464 130.00 DA

NOTE: "Paragraph (a) of § 1.56 states that the duty to disclose information exists until the application becomes abandoned. The duty to disclose information, however, does not end when an application becomes allowed but extends until a patent is granted on that application. The rules provide for information being considered after a notice of allowance is mailed and before the issue fee is paid (§ 1.97(d)) and for an application to be withdrawn from issue after the issue fee has been paid. An application may be withdrawn from issue because one or more claims are unpatentable . . . or an application may be withdrawn from issue and abandoned so that information may be considered in a continuing application before a patent issues. . . ." Notice of January 9, 1992, 1135 O.G. 13-25, at 16.

NOTE: If an application is withdrawn from issue . . . , an information disclosure statement can be submitted in the continuing application under § 1.97(b) without a certification. A continuing application is treated like any other application with regard to the times set forth in § 1.97(b). Thus, for example, an information disclosure statement could be filed without a fee or certification in a continuing application within three months of the filing date of the continuing application. Notice of January 9, 1992, 1135 O.G. 13-25, at 21.

NOTE: "It would not be proper to make final a first Office action in the continuing application if the information submitted is used in a new ground of rejection." Notice of April 20, 1992 (1138 O.G. 37-41, 40).

NOTE: If the petition is made [§ 1.313(c)(1)], that one or more claims are unpatentable, then the Notice of April 20, 1992 (1138 O.G. 37-41) states:

> *"This statement that one or more claims are unpatentable over the information must be unequivocable. A statement that a serious question as to patentability of a claim has been raised, for example, would not be acceptable to withdraw an application from issue under 37 C.F.R. § 1.313(c)(1)."*

NOTE: "The Office will consider [the filing of a petition to permit consideration of an information disclosure statement under § 1.97 in a continuing application] . . . as sufficient grounds to waive the requirement that [a continuing] application . . . be filed before payment of the issue fee." Notice of April 20, 1992 (1138 O.G. 37-41, 40).

PETITION

1. Applicant hereby petitions for the withdrawal of this application from issue.

PATENT ISSUE FEE

2. The issue fee for this case was paid on December 8, 2004

(complete the following, if known)

This application is scheduled to

- ☐ issue on _____.
- ☐ as patent _____.

REASON(S) FOR WITHDRAWAL REQUEST

3. The reason for withdrawal from issue and abandonment of this application is for consideration of an information disclosure statement in a continuing application. 37 C.F.R. § 1.313(c)(3).

EXPRESS ABANDONMENT

4. ☐ Accompanying this petition is an express abandonment of this application to be effective on the grant of this petition and when the continuing application is granted a filing date so as to make this application copending with the continuing application.

FILING OF CONTINUING APPLICATION

5. The continuing application claiming priority under 35 U.S.C. § 120 from this application

☐ was filed on _____.

☒ is being filed on the same date as this petition.

☒ These papers accompany this petition.

6. **PETITION FEES** (37 C.F.R. § 1.17(h) ($130.00))

The petition fee set forth in § 1.17(h), required by 37 C.F.R. § 1.313(a) is paid as follows:

☐ Attached is a ☐ check ☐ money order in the amount of $ _____

☒ Authorization is hereby made to charge the amount of $ 130.00

☒ to Deposit Account No. 14-0225

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

WARNING: *Credit card information should not be included on this form as it may become public.*

☒ Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

A duplicate of this paper is attached.

Michael Chan

SIGNATURE OF PRACTITIONER

Reg. No. 33663

Michael Chan

(type or print name of practitioner)

Tel. No.: (937)445-4956

1700 South Patterson Blvd.

P.O. Address

Customer No.: 26889

Dayton, OH 45479-0001

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

MCDONNELL BOEHNEN HULBERT & BERGHOFF
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO IL 60606

COPY MAILED

MAY 27 2003

OFFICE OF PETITIONS

In re Application of
Krah & Lawton
Application No. 10/325,375
Filed: December 20, 2002
Attorney Docket No. 01-672-E
For: METHODS AND COMPOSITIONS FOR INHIBITING BINDING OF IGE TO A HIGH AFFINITY RECEPTOR

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

This is in response to the petition under 37 CFR 1.47(a), filed April 18, 2003 (certificate of mailing date April 14, 2003).

The petition under 37 CFR 1.47(a) is granted.

Petitioner has shown that the non-signing inventor, Dr. Robert Lawton has refused to join in the filing of the above-identified application after having been presented with the application papers.[1] Specifically, the affidavit of Attorney Neil Gilbert establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but Dr. Lawton twice orally refused to sign the declaration. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

Petitioner's deposit account no. 13-2490 was charged a $130.00 petition fee and a $130.00 surcharge for filing a late declaration because the Office did not receive petitioner's check for $260.00.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing and consideration of the Request for Corrected Filing Receipt, filed April 1, 2003

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

[1] It is assumed that every reference to **Trebor** Lawton in the petition and affidavit is a typographical error. Trebor is Robert spelled backwards. The declaration lists "Robert" as the first name of the non-signing inventor. If the non-signing inventor's first name is indeed, Trebor, petitioner is requested to inform the Office as soon as possible.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

ROBERT LAWTON
3 BURNHAM ROAD
GORHAM ME 04038

COPY MAILED

MAY 27 2003

OFFICE OF PETITIONS

In re Application of
Krah & Lawton
Application No. 10/325,375
Filed: December 20, 2002
Attorney Docket No. 01-672-E
For: METHODS AND COMPOSITIONS FOR INHIBITING BINDING OF IGE TO A HIGH AFFINITY RECEPTOR

LETTER

Dear Dr. Lawton:

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: MCDONNELL BOEHNEN HULBERT & BERGHOFF
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

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ANITA J. TERPSTRA
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32ND FLOOR
300 S. WACKER DRIVE
CHICAGO, IL 60606

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AUG 2 0 2003

OFFICE OF PETITIONS

In re Application of	:	
Thompson, et al.	:	DECISION GRANTING
Application No. 10/325,403	:	PETITION
Filed: December 18, 2002	:	
Attorney Docket No. 00-809-0 (400/073)	:	

This is a decision on the petition under 37 CFR 1.10(c), filed May 12, 2003, requesting that the above-identified application be accorded a filing date of December 18, 2002, rather than the presently accorded filing date of December 23, 2002.

Petitioners allege that the application was deposited in Express Mail service on December 18, 2002. In support, the petition is accompanied by a copy of Express Mail Receipt No. EV214227226US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of December 18, 2002.

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

Accordingly, the application is entitled to a filing date of December 18, 2002.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of December 18, 2002 and issuance of a corrected filing receipt. Thereafter, the application will be forwarded to Technology Center 1600 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Snell & Wilmer L.L.P. (AMEX)
ONE ARIZONA CENTER
400 E. VAN BUREN STREET
PHOENIX, AZ 85004-2202

Mail Date: 04/23/2010

Applicant	: Maureen Cecelia Kenny	: DECISION ON REQUEST FOR
Patent Number	: 7617153	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/325,404	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/19/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2058** 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.

INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS MN 55402

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JUN 18 2009

OFFICE OF PETITIONS

In re Application of : DECISION ON PETITION
Kozintsev et al. :
Application No. 10/325,416 :
Filed: December 19, 2002 :
Attorney Docket No. P13799 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed February 17, 2009.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to pay the Issue Fee within three months of the mailing date, July 18, 2008, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. A reply was timely filed on October 20, 2008 (certificate of mailing dated October 17, 2008); however, when presented, the Deposit Account had insufficient funds. A courtesy Notice of Abandonment was mailed on November 13, 2008.

This petition includes the required reply[1] in the form of payment of the Issue Fee; payment of the petition fee set forth in 37 CFR § 1.17(m); and the required statement of unintentional delay. No terminal disclaimer is required.

It is concluded that all requirements of 37 CFR 1.137(b) have been met.

[1] No Publication Fee was required. The Notice of Allowability did not set forth a distinct but concurrent requirement for corrected drawings.

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded for processing into a patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Igor V. Kozintsev	: DECISION ON REQUEST FOR
Patent Number	: 7584404	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/325,416	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/19/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1567** 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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KLAUS J. BACH & ASSOCIATES
4407 TWIN OAKS DRIVE
MURRYSVILLE, PA 15668

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APR 20 2005

OFFICE OF PETITIONS

In re Application of	:	
Casar et al.	:	
Application No. 10/325,436	:	ON PETITION
Filed: December 20, 2002	:	
Attorney Docket No. MB 354	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 4, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed July 15, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on October 16, 2004. A Notice of Abandonment was mailed March 25, 2005.

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

This matter is being referred to Technology Center 3700 for further examination on the merits.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

Hale and Dorr, LLPþ
60 State Street
Boston, MA 02109

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OCT 0 8 2003

OFFICE OF PETITIONS

In re Application of :
Cosman, Billiar, Mercer, and Miller :
Application No. 10/325,444 : ON PETITION
Filed: December 19, 2002 :
Attorney Docket No.: 68603.12US2 :
For: SYSTEM AND METHOD FOR FORMING
BIOENGINEERED TUBULAR GRAFT PROSTHESES

This is in response to the petition filed under 37 CFR 1.47(a) on September 2, 2003 (certificate of mailing dated August 28, 2003.

The petition is **granted**.

The instant application was filed on December 19, 2003, without a properly executed oath or declaration and filing fee. On January 31, 2003, a Notice to File Missing Parts of Nonprovisional Application was mailed instructing applicant to file the missing parts within two months of the mailing date of the notice. Extension of time were available pursuant to 37 CFR 1.136(a).

On September 2, 2003 (certificate of mailing dated August 28, 2003), petitioner filed the instant petition, the filing fee, surcharge, petition fee, and a declaration executed by all named inventors, except inventor Mercer. Petitioner also obtained an extension of time within the fifth month. Despite having presented inventor Mercer with the complete application papers, petitioner has established that inventor Mercer has constructively refused to join the prosecution of the application. The application will, therefore, be accorded status under 37 CFR 1.47(a).

Notification of the application's status under 37 CFR 1.47(a) will be sent to the non-signing inventor and a posting will made in the Official Gazette pursuant to 37 CFR 1.47(c).

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

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703)305-0010

Kenya G. McLaughlin

Kenya a. McLaughlin
Senior Petitions Attorney
Office of Petitions

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Ryan Mercer
2410 Aberdeen Way
Richmond, CA 9480

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OFFICE OF PETITIONS

In re Application of
Cosman, Billiar, Mercer, and Miller
Application No. 10/325,444
Filed: December 19, 2002
Attorney Docket No. 6860312US2
For: SYSTEM AND METHOD FOR FORMING BIOENGINEERED TUBULAR GRAFT PROSTHESES

LETTER

Dear Mr. Mercer:

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 703/305-0010. 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).

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

Hale and Dorr, LLP
60 State Street
Boston, MA 02019

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WILMER CUTLER PICKERING HALE AND DORR LLP
60 STATE STREET
BOSTON, MA 02109

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NOV 22 2005

OFFICE OF PETITIONS

In re Application of :
Cosman, et al. : LETTER REGARDING PTA
Application No. 10/325,444 :
Filed: December 19, 2002 :
Atty. Dkt. No.: 68603.129US2 :

This letter is in response to the "STATEMENT REGARDING PATENT TERM ADJUSTMENT" filed February 16, 2005. The Office thanks patentees for their good faith and candor in bringing this to our attention. No fee is due in connection with this matter.

The correct Patent Term Adjustment ("PTA") at the time of the issuance is 146 days. The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the instant letter reflects an adjustment of 146 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

The Determination of Patent Term Adjustment mailed November 16, 2004 indicated that at the time of allowance, the above-identified application was entitled to an adjustment of 271 days.

Applicants, however, indicate that the proposed adjustment of 271 days is in error and that the application is thought to be entitled to less than the 271 days indicated.

A review of the application history reveals that the application is entitled to an adjustment 271 days in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1). The adjustment of 271 days, however, is properly reduced 125 days in accordance with 37 CFR 1.704(b) in connection with the petition submitted September 2, 2003 in response to the Notice to File Missing Parts mailed January 31, 2003. The reduction began May 1, 2003, the day after the day that is three months after the date that the Notice was mailed, and ended September 2, 2003, the date a response was submitted.

In view thereof, at the time of allowance, the application was entitled to an adjustment of 146 days.

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

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

Enclosure: Copy of Adjustment PAIR Calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

SMYRSKI & LIVESAY, LLP
3310 AIRPORT AVENUE, SW
SANTA MONICA, CA 90405

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JUN 16 2003

OFFICE OF PETITIONS

In re Application of :
Callum :
Application No. 10/325,448 : ON PETITION
Filed: December 20, 2002 :
Attorney Docket No.: INTC0001 :

This decision in response to the petition filed March 13, 2003 to accord the above-identified application a filing date of December 20, 2002.

The application was filed December 20, 2002. The Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application ("Notice") February 3, 2002. The Notice indicated that the application had not been accorded a filing date as the application as deposited lacked drawings in accordance with 35 USC 113 (first sentence).

Petitioner argues that the application as deposited included three (3) sheets of drawings. Petitioner has included as proof of mailing and proof of receipt of the drawings in question a return postcard date stamped by the Office on December 20, 2002. Petitioner has also supplied a copy of the original three (3) drawing sheets purportedly filed with the application on December 20, 2002.

The original drawing sheets submitted with the application papers have not been located. However, in view of the evidence presented, the Notice is hereby WITHDRAWN and the petition to accord the application a filing date of December 20, 2002 is GRANTED.

Since the original drawing sheets cannot be located in the Office, the copy supplied with the instant petition will be used for examination purposes.

The petition fee of $130.00 submitted with the instant petition is unnecessary. A refund to petitioner's deposit account has been request from the Finance Office, Refund Section.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of December 20, 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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KIMBERLY-CLARK WORLDWIDE, INC.
Tara Pohlkotte
2300 Winchester Rd.
NEENAH, WI 54956

Mail Date: 04/21/2010

Applicant	: Michael T. Morman	: DECISION ON REQUEST FOR
Patent Number	: 7591810	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/325,456	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/19/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1446** 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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SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

Paper No.

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DEC 0 3 2004

OFFICE OF PETITIONS

In re Application
Spence et al.
Application No. 10/325,463
Filed: December 20, 2002
Atty Docket No. KCC 4784 (K-C 17,443)

DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR § 1.705," filed August 9, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred twenty-six (126) days to one hundred thirty-one (131) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is one hundred thirty-one **(131)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 30, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 126 days. On August 9, 2004, applicants timely[1] submitted an application for patent term adjustment (with required fee). Applicants dispute the reduction of 5 days attributed to applicant for failing to respond within three months to the Notice to File Missing Parts of Application mailed January 30, 2003.

Applicants specifically state that the patent issuing from the application is not subject to a terminal disclaimer.

The reduction of 5 days has been found to be incorrect. A review of the application file reveals that applicants' response to the Notice to File Missing Parts of Application mailed January 30, 2003, is of record in the application with a date of receipt by

[1] The Issue Fee payment was received in the Office on September 14, 2004.

the Office of April 2, 2003. Furthermore, the response included a complete reply to the Notice. Thus, the Office should not have assessed applicants a delay of 5 days. The response was filed within the three-month period under 37 CFR 1.704(b) and accordingly, applicants' delay should have been assessed as zero (0) days. Applicants did not fail to engage in reasonable efforts to conclude prosecution of the application by delaying in replying to the Notice to File Missing Parts of Application.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is one hundred thirty-one (131) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Kery A. Fries
for

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

Enclosure: Copy of Revised PAIR Screen

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DEC 24 2003

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DEC 24 2003

OFFICE OF THE DIRECTOR
TC 3600

ALTERA LAW GROUP, LLC
6500 CITY WEST PARKWAY
SUITE 100
MINNEAPOLIS, MN 55344-7704

Paper No. 9

In re application of : **DECISION ON PETITION**
Wayne E. Simon et al. : **TO MAKE SPECIAL**
Application No. 10/325,471 : **(APPLICANT'S AGE)**
Filed: December 18, 2002 :
For: METHOD AND APPARATUS FOR MIXTURE SEPARATION

This is a decision on the petition submitted on March 26, 2003 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

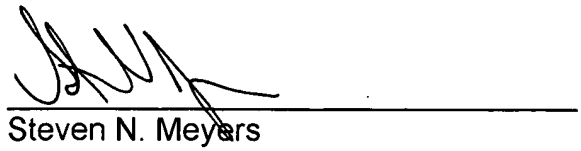
An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a copy of birth certificates from Wayne E. Simon and Jackie O. Bunting showing that they are at least 65 years of age.

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

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

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



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

SNM/cps 12/15/03

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DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE, SC 29602-1449

Mail Date: 04/21/2010

Applicant	: Jason Lye	: DECISION ON REQUEST FOR
Patent Number	: 7666410	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/325,474	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/20/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **194** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : MAY 18, 2007

TO SPE OF : ART UNIT 2817

SUBJECT : Request for Certificate of Correction for Appl. No.: 10325478 Patent No.: 6806779B1

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: _____

_____

_____

_____

_____ 2817

SPE **Art Unit**

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OFFICE OF PETITIONS

KING & SPALDING
1180 PEACHTREE STREET NE
ATLANTA GA 30309-3521

In re Application of :
Tamarkin, et al. :
Application No. 10/325,485 : ON PETITION
Filed: December 19, 2002 :
Attorney Docket No. 01994-0033 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed June 29, 2009.

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 final Office action, mailed June 18, 2008. This Office action set a shortened statutory period for reply of three months. Applicant filed an Amendment on December 18, 2008, made timely by obtaining a three month extension of time. However, in an Advisory Action mailed on March 12, 2009, the Examiner informed Applicant that the Amendment did not place the application in condition for allowance. No further reply having been received, the application became abandoned on December 19, 2009. The Office mailed a Notice of Abandonment on March 31, 2009.

With the instant petition, applicant paid the petition fee, made the proper statement of unintentional delay, and filed the required reply in the form of an RCE.

The application is being forwarded to Group Art Unit 1647 for consideration of the RCE, filed June 29, 2009.

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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1401 CITRUS CENTER
225 S ORANGE AVENUE
POST OFFICE BOX 3791
ORLANDO, FL 32802

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MAR 17 2005

OFFICE OF PETITIONS

In re Application of :
Fabrice Marinet et al :
Application No. 10/325,491 : DECISION GRANTING PETITION
Filed: December 19, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 01R027554440 :

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

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

This matter is being referred to Technology Center AU 2859 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions
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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ROBERT D. BUYAN
STOUT UXA BUYAN & MULLINS LLP
4 VENTURE, SUITE 300
IRVINE, CA 92618

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JAN 18 2007

OFFICE OF PETITIONS

In re Application of :
GORDON :
Application No. 10/325,505 : DECISION ON PETITION
Filed: December 20, 2002 : TO WITHDRAW
Attorney Docket No. SFTST-001A : 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 8, 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 Robert D. Buyan on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole named inventor Virginia C. Gordon at the address indicated below. There is an outstanding Office action mailed December 15, 2006 that requires a reply from the applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **VIRGINIA C. GORDON**
SAFTEST DIVISION, MPBIOMEDICALS
15 MORGAN
IRVIN, CA 92618

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

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OFFICE OF PETITIONS

In re Application of	:	
Gerhard Muller, et al.	:	
Application No. 10/325,518	:	NOTICE
Filed: December 19, 2002	:	
Attorney Docket No. 49449/CM/E43		

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 referred to the Office of Publications.

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

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CARLSON GASKEY & OLDS PC
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM MI 48009

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AUG 21 2006

OFFICE OF PETITIONS

In re Application of :
Ingram, et al. : DECISION ON PETITION
Application No. 10/325,540 :
Filed: December 19, 2002 :
Attorney Docket No. 60,137-152 :

This is a decision on the petition filed January 17, 2006, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed March 25, 2005, which set a shortened statutory period for reply of three (3) months. Applicants filed an Amendment on May 25, 2005. However, by Advisory Action mailed June 9, 2005, Applicants were informed that the Amendment failed to place the application in condition for allowance. A Notice of Abandonment was mailed on December 22, 2005.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and filed the required reply in the form of an Appeal Brief (a Notice of Appeal and fee were previously filed on November 18, 2004).

The application file is being forwarded to Group Art Unit 3751 for consideration of the Appeal Brief filed January 17, 2006.

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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400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

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AUG 15 2008

In re Application of
Ingram, et. al.
Application No. 10/325,540
Filed: December 19, 2002
Attorney Docket No. 60,137-152

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 27, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 26, 2007, as required by the Notice of Allowance and Fee(s) Due mailed July 26, 2007. Accordingly, the application became abandoned on October 27, 2007. A Notice of Abandonment was mailed March 31, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440 and the publication fee of $300, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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JUL 1 4 2004

OFFICE OF PETITIONS

In re Application of :
David J. Cornell :
Application No. 10/325,553 : ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. 85554RLW :

This is a decision on the petition under 37 CFR 1.137(b), filed June 28, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure submit the issue fee and in a timely manner in reply to the Notice of Allowance mailed November 3, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 4, 2004.

There is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Issue Fee Transmittal Form should be completed and returned to the Publishing Division, Box Issue Fee, within ONE MONTH from the mail date of this decision

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application is being forwarded to the Publishing Division.

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

Attachment: Blank Issue Fee Transmittal PTOL-85

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

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AUG 25 2005

OFFICE OF PETITIONS

In re Application of :
David J. Cornell :
Application No. 10/325,553 : ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. 85554RLW :

This is a decision on the petition, filed July 15, 2005, which is being treated as a renewed petition under 37 CRF 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure submit the issue fee and in a timely manner in reply to the Notice of Allowance mailed November 3, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 4, 2004.

There is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Issue Fee Transmittal Form should be completed and returned to the Publishing Division, Box Issue Fee, within ONE MONTH from the mail date of this decision.

The decision mailed July 14, 2004 is hereby vacated as of the mail date of this decision.

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

The matter is being referred to the Publishing Division.

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

Attachment: Blank Issue Fee Transmittal PTOL-85

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CST

4-5-07

In re application of
John W. Bibber
Serial No. 10/325,554
Filed: December 17, 2002
For: CORROSION RESISTANT MAGNESIUM AND MAGNESIUM ALLOY AND METHOD OF PRODUCING SAME

DECISION ON REQUEST FOR EXTENSION OF TIME

This is a decision on the REQUEST FOR EXTENSION OF TIME filed November 27, 2006 to obtain a 1 month extension of time for filing a response to the Appeal Brief mailed on August 24, 2006. Note that the REQUEST FOR EXTENSION OF TIME filed October 24, 2006 has been approved.

The request for extension of time filed November 27, 2006 is not timely. Note that the first request for extension of time resulted in a due date of November 24, 2006 (Friday) for a response to the Appeal Brief to be filed. Instead, the second request for extension of time was filed on November 27, 2006 (Monday). 37 CFR 1.136(b) specifically requires that any request for extension of time must be filed on or before the day on which such reply is due.

Accordingly, the request for an extension of time filed November 27, 2006 is DENIED.

Jacqueline Stone
Director
Technology Center 1700

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APR 28 2005

Paper No. 5

Siemens Corporation
Attn: Elsa Keller, Legal Administrator
Intellectual Property Department
186 Wood Avenue South
Iselin, NJ 08830

In re Application of	:	DECISION ON PETITION
Lim Richard	:	TO ACCEPT
Serial No. : 10/325,557	:	COLOR DRAWINGS
Filed : December 18, 2002	:	
For : Three-Dimensional Pictograms for Use with Medical Images	:	

This is a decision on petitioner's request filed December 18, 2002 to accept color drawings.

Under 37 CFR 1.84(b)(2) color photographs will be accepted in utility applications if: (a) a fee as set forth in 37 CFR 1.17(h) is submitted; (b) three (3) sets of color drawings are provided; (c) a black and white photocopy accurately depicting, to the extent possible, the subject matter shown in the color drawing is submitted; and (d) the specification is amended by inserting as the first paragraph of the brief description of the drawings the following language:

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

Applicant has complied with the above requirements. Accordingly the petition to accept color drawings is granted.

Summary: Petition to accept color drawings granted.

Brian L. Casler, SPE
Art Unit 3737
Phone: (571) 272-4956

ak/04/26/05

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EDWARDS & ANGELL, LLP
DIKE, BRONSTEIN, ROBERTS & CUSHMAN, IP GROUP
P.O. BOX 9169
BOSTON MA 02209

COPY MAILED

JUN 22 2006

OFFICE OF PETITIONS

In re Application of
Masaru Kusaka et al.
Application No. ~~10/325,675~~ 10/325,576
Filed: December 23, 2002
Attorney Docket No. 51573

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b),[1] filed March 20, 2006, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Final Office Action mailed April 26, 2005. A shortened statutory period of three months was set for replying to the Final Office Action. A Notice of Appeal was filed July 27, 2005 in response to the Final Office Action. Subsequently however, on October 6, 2005, an RCE was filed with only an IDS, thus it was improper and the application became abandoned. Accordingly, a Notice of Abandonment was mailed January 19, 2006.

---

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

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

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

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

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

Comes now, however, petitioner with the instant petition to revive and an amendment to be treated as the submission under 37 CFR 1.114.

This matter is being referred to Technology Center 1742 for processing of the RCE filed October 6, 2005 and for entry of the amendment filed March 20, 2006 with the instant petition.

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

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P.O. BOX 9169
BOSTON MA 02209

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JUN 28 2006
OFFICE OF PETITIONS

In re Application of
Masaru Kusaka et al.
Application No. 10/325,576
Filed: December 23, 2002
Attorney Docket No. 51573

ON PETITION

CORRECTED DECISION[1]

This is a decision on the petition under 37 CFR 1.137(b),[2] filed March 20, 2006, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Final Office Action mailed April 26, 2005. A shortened statutory period of three months was set for replying to the Final Office Action. A Notice of Appeal was filed July 27, 2005 in response to the Final Office Action. Subsequently however, on October 6, 2005, an RCE was filed with only an IDS, thus it was improper and the application became abandoned. Accordingly, a Notice of Abandonment was mailed January 19, 2006.

---

[1]This decision is mailed for the sole purpose of correcting the application number on the first page of the decision mailed June 22, 2006.

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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, however, petitioner with the instant petition to revive and an amendment to be treated as the submission under 37 CFR 1.114.

This matter is being referred to Technology Center 1742 for processing of the RCE filed October 6, 2005 and for entry of the amendment filed March 20, 2006 with the instant petition.

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

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Paper No. 6

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

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AUG 26 2003

OFFICE OF PETITIONS

In re Application of :
James P. Coffin IV et al :
Application No. 10/325,602 : ON PETITION
Filed: December 19, 2002 :
Attorney Docket No. MASIMO.303A :

This is in response to the petition under 37 CFR 1.47(a), filed June 27, 2003.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 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).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (2) set forth above.

As to item (2), the declaration submitted with the petition does not comply with 37 CFR 1.63 and 1.64. The declaration fails to set forth inventor Jose Quinones's citizenship, residence and mailing address. Therefore, a declaration in compliance with 37 CFR 1.63 and 1.64 signed by the signing inventors on behalf of the nonsigning inventors is required. See MPEP 409.03; MPEP 602 and MPEP 605.01.

After this decision is mailed, deposit account No.11-1410 will be charged the fee for the petition under 37 CFR 1.47 ($130).

In order to expedite consideration of the petition under 37 CFR 1.47(a), petitioner may wish to consider submitting the renewed petition by facsimile transmission to the telephone number indicated below and to the attention of Wan Laymon.

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

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

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

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

Telephone inquiries related to this decision should be directed to Wan Laymon at (703) 306-5685.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 9

KNOBBE MARTENS OLSON & BEAR
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IRVINE, CA 92614

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DEC 0 1 2003

OFFICE OF PETITIONS

In re Application of :
James P. Coffin et al :
Application No. 10/325,602 : DECISION GRANTING STATUS
Filed: December 19, 2002 : UNDER 37 CFR 1.47(A)
For: LOW NOISE PATIENT CABLE :

This is a decision on the petitioner filed November 25, 2003, requesting reconsideration of a decision mailed August 26, 2003, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is granted.

Petitioner has shown that the non-signing inventors have 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 inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, deposit account No. 11-1410 will be charged a one-month extension of time fee ($110).

Telephone inquiries regarding this decision should be directed to Petitions Examiner Wan Laymon at (703) 306-5685.

This application is being forwarded to Technology Center AU 3736 for examination in due course.

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

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COMMISSIONER FOR PATENTS
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JOSE QUINONES
12328 ORR AND DAY ROAD
NORWALK, CA 90650

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DEC 0 1 2003

OFFICE OF PETITIONS

In re Application of
Coffin IV; Schmidt; Abdul-Hafiz; Quinones; and Atapattu
Application No. 10/325,602
Filed: December 19, 2002
For: LOW NOISE PATIENT CABLE

Dear Mr. Quinones:

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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DESHAN L. ATAPATTU
10546 DEERING AVENUE
CHATWORTH, CA 91311

COPY MAILED

DEC 0 1 2003

OFFICE OF PETITIONS

In re Application of
Coffin IV; Schmidt; Abdul-Hafiz; Quinones; and Atapattu
Application No. 10/325,602
Filed: December 19, 2002
For: LOW NOISE PATIENT CABLE

Dear Mr. Atapattu:

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

July 31, 2007

PAULEY PETERSEN & ERICKSON
2800 WEST HIGGINS ROAD
HOFFMAN ESTATES, IL 60169
US

Dear Sir/Madam,

Your refund request for 10325607 in the amount of $2,290.00 has been denied .

The Office is not in receipt of a petition under 37 CFR 1.181. Applicant is encouraged to submit a copy of the petition under 37 CFR 1.181 as mentioned in the request for refund submitted on June 22, 2007.

Sincerely,

Karen Creasy

KAREN CREASY
Office of Petition
571 272 3208

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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2800 WEST HIGGINS ROAD
HOFFMAN ESTATES IL 60169

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DEC 10 2007

OFFICE OF PETITIONS

In re Application of
Meyer et al.
Application No.10/325,607
Filed: December 20, 2002
Title of Invention: Preferentially Strechable Laminates with Perforated Layers

ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed May 25, 2007.

This above-identified application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office Action of October 17, 2006. The final Office Action set a three (3) month shortened statutory period for reply. An amendment was filed on December 18, 2006. An Advisory Action was mailed on January 23, 2007 informing applicant the response filed did not place the application in condition for allowance. Accordingly, this application became abandoned on January 18, 2007. A Notice of Abandonment was mailed on May 16, 2007.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an RCE, RCE fee and previously submitted amendment (2) the petition fee of $1500.00, and (3) a proper statement of unintentional delay.

The Request for Continued Examination (RCE), and the amendment previously submitted on December 18, 2006 will be forwarded to Art Unit 3761 for appropriate action by the Examiner in the normal course of business.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PAULEY PETERSEN & ERICKSON
2800 WEST HIGGINS ROAD
HOFFMAN ESTATES IL 60169

In re Application of:
Meyer, Stephen C., et al.
Serial No. 10/325,607
Filed: Dec. 20, 2002
Docket: K-C 16785
Title: PREFERENTIALLY STRETCHABLE LAMINATES WITH PERFORATED LAYERS

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed on December 5, 2007 under 37 CFR § 1.181. The original petition was received by USPTO on Feb. 21, 2007 as shown by the dated receipt of an exhibit accompanied with the current petition. Petitioner requests that the finality of the rejection mailed on October 17, 2006 be withdrawn as premature.

The petition is dismissed as moot.

Background

In response to the applicant's Request for reconsideration filed on Sep. 11, 2006, the examiner withdrew the previous final rejection mailed on Jul.13, 2006 and issued a new Final Rejection on Oct. 17, 2006. On Dec. 18, 2006, the applicant filed an amendment after final amending independent claims 1, 9, 15 and 23. Subsequently, the examiner issued an advisory action on Jan. 23, 2007 refusing to enter the amendment after final. Since there was no appeal notice filed, a notice of abandonment was sent on May 16, 2007. On May 25, 2007, the applicant filed a RCE and a petition to revive the application. On Dec. 5, 2007, the applicant filed a copy of the original petition to withdraw finality of Oct. 17, 2006 Office action. On Dec. 10, 2007, the petition to revive the application was granted by the Petitions Office with instruction to process the RCE and the amendment after final filed on Dec. 18, 2006. Pursuant to the decision, the examiner entered the amendment after final of Dec. 18, 2006 and issued a non-final Office action on Dec. 26, 2007.

Discussion

The present petition, originally filed on Feb. 21, 2007 with a copy filed on December 5, 2007, requests withdrawal of the finality of the Office Action filed on October 17, 2006 as premature. However, in response to the Jan. 23, 2007 Advisory Action, the applicants filed a Request for Continuing Examination on May 25, 2007.

With respect to a Request for Continuing Examination, 37 CFR §1.114(d) states:

> If an applicant timely files a submission and fee set forth in § 1.17(e), the Office will withdraw the finality of any Office action and the submission will be entered and considered.

A review of the record indicates that the applicant filed a petition to revive the application along with a request of RCE, a submission and paid the fees set forth in §1.17(e). Therefore, the petition to revive was granted on Dec. 10, 2007 and the RCE filed on May 25, 2007 was also entered pursuant to the decision. The finality of the Office Action mailed on October 17, 2006 was operatively withdrawn, and the applicant is now able to argue the merits of the examiner's rejections in subsequent amendments.

Decision

In view that the contested claims are now pending before the examiner, the petitioners' request for relief is moot. Therefore, the petition to withdraw the finality of the Oct. 17, 2006 Office Action is dismissed as moot.

PETITION DISMISSED.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

Karen M. Young

for Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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Paper No. 5

SCHWEGMAN, LUNDBERG,
WOESSNER & KLUTH, P.A.
PO BOX 2938
MINNEAPOLIS, MN 55402

COPY MAILED

MAY 22 2003

OFFICE OF PETITIONS

In re Application of :
Solar :
Application No. 10/325,615 : ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. 723.057US1 :

This decision concerns the April 15, 2003 "Petition Regarding Notice to File Missing Parts of Nonprovisional Application" which, in effect, requests that the Notice to File Missing Parts of Nonprovisional Application, mailed on February 11, 2003 for the above-referenced application ("2/11/03 Notice"), be withdrawn to the extent that it refers to an omitted drawing.

The petition is **GRANTED.**

The application was filed on December 20, 2002. As indicated in the 2/11/03 Notice, a filing date had been accorded this application, but a drawing (Figure 4) described in the specification appeared to have been omitted from the filed application.[1] The petition then followed.

The petition contends that the allegedly omitted Figure 4 was filed with the other application papers on December 20, 2002. In support, the petition is accompanied by a copy of Applicant's postcard receipt indicating receipt by the Office of, *inter alia*, 10 sheets of formal drawings for this application on that date. The postcard receipt identifies the application by docket number, inventor name, and title of invention. The petition also encloses copies of the 10 sheets of drawings, including Figure 4 (on sheet 3/10), allegedly filed on December 20, 2002.

The Office file for this application includes 9 sheets of drawings containing Figures 1-2 (sheet 1/10), 3A-3C (sheet 2/10), 5A-5C (sheet 4/10), 5D (sheet 5/10), 5E (sheet 6/10), 5F (sheet 7/10), 6A-6D (sheet 8/10), 7-8 (sheet 9/10), and 9 (sheet 10/10), but not a Figure 4 or a sheet 3/10. Based on the information contained in Applicant's postcard receipt, the Office concludes that the sheet of drawing containing Figure 4 had been filed on December 20, 2002, and was later misplaced. The petition is thus granted. The 2/11/03 Notice is hereby withdrawn to the extent that it refers to omitted Figure 4.

No petition fee is owed. The $130 petition fee has been credited to Deposit Account No. 19-0743 as authorized in the present petition.

[1] The other missing items mentioned in the 2/11/03 Notice were: the application basic filing fee; the extra claims fees; and a properly signed oath/declaration.

In addition, the Office acknowledges receipt with the petition of:[2] the $375 basic filing fee for this application; the $135 for 15 total claims exceeding 20; the $126 for 3 independent claims over 3; a signed "United States Patent Application Combined Declaration and Power of Attorney"; and the accompanying $65 surcharge for not having submitted an acceptable oath/declaration upon filing of the original application papers.

The application is now complete.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 20, 2002, using the papers filed on that date and supplemented with the Figure 4 submitted with the present petition. Thereafter, the file will be forwarded to the appropriate Technology Center for examination in due course.

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

for D Wood
Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions

---

[2] In small entity amounts.

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

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MAY 0 1 2008

OFFICE OF PETITIONS

In re Application of :
SOLAR, Matthew S. :
Application No. 10/325,615 : DECISION ON PETITION
Filed: December 20,2002 : TO WITHDRAW
Attorney Docket No. **5074I-000014/US** : 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 27, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **SCHWEGMAN, LUNDBERG & WOESSNER, P.A.** has been revoked by the assignee of the patent application on December 11, 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: **HARNESS, DICKEY & PIERCE, P.L.C.**
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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: 04/21/2010

Applicant	: Matthew S. Solar	: DECISION ON REQUEST FOR
Patent Number	: 7636596	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/325,615	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/20/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **844** 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

#8

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FROM DIRECTORS OFFICE

APR 20 2005

TECHNOLOGY CENTER 3600

Lawrence J. Chapa
1220 St. William Drive
Libertyville, IL 60048

In re Application of :
Ken Fullick :
Application No. 10/325,622 :
Filed: December 18, 2002 :
For: LATCH MECHANISM WITH PROTRUSION AND CORRESPONDING POCKET BRACE

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on January 17, 2005.

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

☐ Postcard receipt being dated_____.

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

☒ Certificate of Mailing/Transmission signed on June 10, 2004 and supported by a statement under 37 C.F.R. 1.8(b)(3).

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

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

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

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

KJD/dgd: 3/31/05

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BURR & BROWN
P O BOX 7068
SYRACUSE, NY 13261-7068

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JAN 1 8 2006

OFFICE OF PETITIONS

In re Application of :
Yasuhiko Tanaka et al :
Application No. 10/325,632 : DECISION GRANTING PETITION
Filed: December 20, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 843_001 :

This is a decision on the petition, filed January 17, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 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 the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2125 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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JUN 19 2006

OFFICE OF PETITIONS

In re Application of :
Yasuhiko Tanaka et al :
Application No. 10/325,632 : ON PETITION
Filed: December 20,2002 :
Attorney Docket No. 843_001 :

This is a decision on the petition, filed June 15, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 2, 2006 (Certificate of Mailing date April 28, 2006), in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2125 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 05/04/2010

Applicant	: Changwen Liu	: DECISION ON REQUEST FOR
Patent Number	: 7616597	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/325,657	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/19/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1190** 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.

OIPE JC106 JUN 27 2005 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application Inventor(s): Debasis Bagchi et al. Appl. No.: 10/325,675 Confirm. No.: 8840 Filed: December 20, 2002 Title: Compositions Incorporating (-)- Hydroxycitric Acid, Chromium, and Gymnemic Acid, and Related Methods for Promoting Healthy Body Weight and Improving Related Health Factors	PATENT APPLICATION Art Unit: 1618 Examiner: James M. Spear **Customer No. 23910**

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited in 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, Virginia 22313-1450**, on 6/24/05.

Laura Hulac (Signature)

Laura Hulac

Signature Date: 6/24/05

PETITION TO CORRECT INVENTORSHIP UNDER 37 C.F.R. §1.48

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

Sir:

Applicants, through their undersigned attorney, hereby petition the Commissioner to correct the names of the inventors in the above-identified application to include the name of Sunny E. Ohia . The prior identification of inventors was made in error though without deceptive intent on the part of the above-named omitted inventor as supported by the Statements submitted herewith.

A Declaration for Patent Application as required by 37 C.F.R. § 1.63 executed by the actual inventors is submitted herewith.

The petition fee set forth in 37 C.F.R. §1.17(h) is provided by the enclosed check in the amount of: $130.00.

06/28/2005 EAREGAY1 00000004 10325675

01 FC:1464 130.00 OP

Attorney Docket No.: IHEAL-01039US1 SRM/AGC
//1039US1 pet to correct inventorship.wpd

The Commissioner is hereby authorized to charge any deficiencies or credit overpayment to Deposit Account No. 06-1325. A duplicate copy of this authorization is enclosed.

Respectfully submitted,

Date: 6/24/05

By: _____
Anthony G. Craig
Reg. No. 50,342

FLIESLER MEYER LLP
Four Embarcadero Center, Fourth Floor
San Francisco, California 94111-4156
Telephone (415) 362-3800
Customer No. 23910

OIPE JC106
JUN 27 2005
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENTS AND TRADEMARK OFFICE

In re Application Inventors: Debasis Bagchi et al. Appln. No.: 10/326,675 Confirm. No.: Filed: December 20, 2002 Title: COMPOSITIONS INCORPORATING (-)-HYDROXYCITRIC ACID, CHROMIUM, AND GYMNEMIC ACID, AND RELATED METHODS FOR PROMOTING HEALTHY BODY WEIGHT AND IMPROVING RELATED HEALTH FACTORS	PATENT APPLICATION Art Unit: 1618 Examiner: James M. Spear **Customer No. 23910**

CONSENT OF ASSIGNEE TO CORRECTION OF INVENTORSHIP UNDER 37 C.F.R. §1.48

The below-identified Assignee hereby consents to correction of the named inventors in the above-identified patent application as set forth in the accompanying petition which adds Sunny E. Ohia as an inventor.

The undersigned certifies that Assignee is the owner of a right, title and interest in the above-identified patent application by virtue of an Assignment from the inventors to Assignee and that a true copy of the Assignment(s) is (are) attached hereto.

The Assignment has been reviewed and to the best of the undersigned's knowledge and belief, title to the above-identified patent application is in the Assignee. The undersigned (whose title is supplied below) is empowered to sign this certification on behalf of the Assignee.

Assignee: Interhealth Nutraceuticals Incorporated

Assignee Type: Corporation

Signor's Name: William Seroy

Signor's Title: President/CEO

Signature: _____ Date: 6/20/05

Attorney Docket No.: IHEAL-01039US1 SRM/AGC
/1039/1039US1/1039us1.inventorship.wpd

OIPE
JUN 27 2005
PATENT & TRADEMARK OFFICE
§1.10

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventors: Debasis Bagchi, et al.
Appln. No.: 10/325,675
Confirm. No.: 8840
Filed: December 20, 2002
Title: COMPOSITIONS INCORPORATING (-)-HYDROXYCITRIC ACID, CHROMIUM, AND GYMNEMIC ACID, AND RELATED METHODS FOR PROMOTING HEALTHY BODY WEIGHT AND IMPROVING RELATED HEALTH FACTORS

PATENT APPLICATION

Art Unit: 1618
Examiner: James M. Spear

Customer No.: 23910

DECLARATION FOR PATENT APPLICATION
(PRIORITY UNDER 35 U.S.C. §119/§120/§365)

As a below named inventor, I hereby declare that my residence, mailing address and citizenship are as stated below next to my name. I believe that I am the original, first and sole inventor (if only my name is listed below) or the original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention identified by "Title" above and by the specification identified below (check applicable ones):

The specification:

_____ is attached hereto;
__✔__ was filed with the above-identified "Appln. No." and "Filed" date (national or PCT international);
_____ was amended on (or through) _____.

I have reviewed and understand the contents of the above-identified specification including the claims and including any above-identified amendment(s).

I acknowledge a duty to disclose to the U.S. Patent and Trademark Office all information known to me to be material to patentability of the application as defined in Title 37, Code of Federal Regulations §1.56.

I hereby claim foreign priority benefits under 35 U.S.C. §119(a)-(d) or §365(b) of any foreign application(s) for patent or inventor's certificate, or §365(a) of any PCT international application which designated at least one country other than the United States, listed below and have also identified below any foreign application for patent or inventor's certificate, or PCT international application, filed by me or my assignee disclosing the subject matter claimed in this application and having a filing date (1) before that of the application on which priority is claimed, or (2) if no priority is claimed, before the filing date of this application:

Prior Foreign Application(s)

Priority Claimed

Attorney Docket No.: IHEAL-01039US1 SRM/AGC
ACraig/wp/iheal/1039US1/1039us1.declaration.wpd

Number	Country	Day/Month/Year Filed	Yes	No

I hereby claim the benefit under 35 U.S.C. §119(e) of any United States provisional application(s) listed below:

U.S. Provisional Application(s)

Application No.	Day/Month/Year Filed
a) 60/343,473	20 December 2001

I hereby claim the benefit under 35 U.S.C. §120 of any United States application(s), or §365(c) of any PCT international application designating the United States, listed below and insofar as the subject matter of each of the claims of this application is not disclosed in such prior United States or PCT International applications in the manner provided by the first paragraph of 35 U.S.C. §112, I acknowledge the duty to disclose material information as defined in 37 C.F.R. §1.56 which occurred between the filing date of the prior applications and the national or PCT international filing date of this application:

Prior U.S. or PCT Application(s)

Application No.	Day/Month/Year Filed	Status: (patented, pending, abandoned)
a)		

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

****

(1) Full name of sole or first inventor: Debasis Bagchi

(1) Residence: 5332 Vista Point Court, Concord, California 94521

(1) Mailing Address: Same

(1) Citizenship: United States

(1) Date: 6/3/05 (1) Inventor's signature: Debasis Bagchi

****

(2) Full name of second joint inventor: Harry G. Preuss

(2) Residence: 10923 Oxford Court, Fairfax Station, VA 22039

(2) Mailing Address: Same

(2) Citizenship: United States

(2) Date: 6-15-05 (2) Inventor's signature: Harry G Preuss MD

****

(3) Full name of third joint inventor: Sunny E. Ohia

(3) Residence: 2918 Wickwood Drive, Pearland, Texas 77584

(3) Mailing Address: Same

(3) Citizenship: United States

(3) Date: _____ (3) Inventor's signature: _____

****

****

(2) Full name of second joint inventor: Harry G. Preuss

(2) Residence: 10923 Oxford Court, Fairfax Station, VA 22039

(2) Mailing Address: Same

(2) Citizenship: United States

(2) Date: _____ (2) Inventor's signature: _____

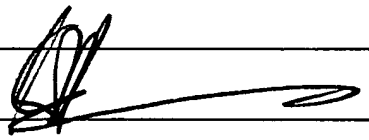
****

(3) Full name of third joint inventor: Sunny E. Ohia

(3) Residence: 2918 Wickwood Drive, Pearland, Texas 77584

(3) Mailing Address: Same

(3) Citizenship: United States

(3) Date: 5/27/05 (3) Inventor's signature: 

****

OIPE JC108 JUN 27 2005 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application Inventors: Debasis Bagchi et al. Appln. No.: 10/325,675 Confirm. No.: Filed: December 20, 2002 Title: COMPOSITIONS INCORPORATING (-)-HYDROXYCITRIC ACID, CHROMIUM, AND GYMNEMIC ACID, AND RELATED METHODS FOR PROMOTING HEALTHY BODY WEIGHT AND IMPROVING RELATED HEALTH FACTORS	PATENT APPLICATION Art Unit: 1618 Examiner: James M. Spear **Customer No. 23910**

STATEMENT OF SUNNY E. OHIA IN SUPPORT OF PETITION TO CORRECT INVENTORSHIP UNDER 37 C.F.R. §1.48

I, Sunny E. Ohia, declare that:

1. The inventive entity was set forth in error in the above-identified patent application on the Declaration for the patent application executed by Debasis Bagchi and Harry G. Preuss on March 3, 2003 and June 25, 2003, respectively, regarding the above-identified patent application (hereinafter "Erroneous Declaration").

2. I was not named as an inventor in the Erroneous Declaration.

3. I am an actual inventor in the above-identified patent application.

4. The error in not naming me on the Erroneous Declaration occurred without deceptive intent on my part.

5 I understand that this Statement will be filed in the United States Patent and Trademark Office in order to provide satisfactory evidence indicating the error in inventorship in the above-identified application did not involve deceptive intent on my part.

Date: 5/27/05 By: _____
Sunny E. Ohia

Attorney Docket No.: IHEAL-01039US1 SRM/AGC
/1039/1039US1/1039us1.inventorship.wpd

JOINT TO CORPORATE ASSIGNMENT

WHEREAS, the undersigned Inventors:

(1) Debasis Bagchi,
a resident of Concord, California; and

(2) Harry G. Preuss,
a resident of Fairfax Station, Virginia; and

(3) Sunny E. Ohia,
a resident of Pearland, Texas.

have invented certain new and useful improvements in:

COMPOSITIONS INCORPORATING (-)-HYDROXYCITRIC ACID, CHROMIUM, AND GYMNEMIC ACID, AND RELATED METHODS FOR PROMOTING HEALTHY BODY WEIGHT AND IMPROVING RELATED HEALTH FACTORS

and have executed a declaration or oath for an application for a United States patent disclosing and identifying the invention, said invention having been filed on the 20th day of December, 2002, and assigned U.S. Patent Application No. 10/325,675.

WHEREAS Interhealth Nutraceuticals Incorporated (hereinafter termed "Assignee"), a corporation of the State of California, having a place of business at 5451 Industrial Way, Benicia, California 94510, wishes to acquire the entire right, title and interest in and to said application and the invention disclosed therein, and in and to all embodiments of the invention, heretofore conceived, made or discovered jointly or severally by said Inventors (all collectively hereinafter termed "said invention"), and in and to any and all patents, certificates of invention and other forms of protection thereon (hereinafter termed "patents") applied for or granted in the United States and/or other countries.

NOW THEREFORE, for good and valuable consideration acknowledged by each of said Inventors to have been received in full from said Assignee:

1. Said Inventors do hereby sell, assign, transfer and convey to said Assignee, the entire right, title and interest (a) in and to said application and said invention; (b) in and to all rights to apply in any or all countries of the world for patents, certificates of inventions or other governmental grants on said invention, including the right to apply for patents pursuant to the International Convention for the Protection of Industrial Property or pursuant to any other convention, treaty, agreement or understanding; (c) in and to any and all applications filed and any and all patents, certificates of inventions or other governmental grants granted on said invention in the United States or any other country, including each and every application filed and each and every patent granted on any application which is a division, substitution, or continuation of any of said applications; (d) in and to each and every reissue or extension of any of said patents; and (e) in and to each and every patent claim resulting from a reexamination certificate for any and all of said patents.

2. Said Inventors hereby jointly and severally covenant and agree to cooperate with said Assignee to enable said Assignee to enjoy to the fullest extent the right, title and interest herein conveyed in the United States and other countries. Such cooperation by said Inventors shall include prompt production

of pertinent facts and documents, giving of testimony, executing of petitions, oaths, specifications, declarations or other papers, and other assistance all to the extent deemed necessary or desirable by said Assignee (a) for perfecting in said Assignee the right, title and interest herein conveyed; (b) for complying with any duty of disclosure; (c) for prosecuting any of said applications; (d) for filing and prosecuting substitute, divisional, continuing or additional applications covering said invention; (e) for filing and prosecuting applications for reissue of any of said patents; (f) for interference or other priority proceedings involving said invention; and (g) for legal proceedings involving said invention and any applications therefor and any patents granted thereon, including without limitation opposition proceedings, cancellation proceedings, priority contests, public use proceedings, reexamination proceedings, compulsory licensing proceedings, infringement actions and court actions; provided, however, that the expense incurred by said Inventors in providing such cooperation shall be paid for by said Assignee.

3. The terms and covenants of this Assignment shall inure to the benefit of said Assignee, its successors, assigns and other legal representatives, and shall be binding upon said Inventors, their respective heirs, legal representatives and assigns.

4. Said Inventors hereby jointly and severally warrant and represent that they have not entered and will not enter into any assignment, contract, or understanding in conflict herewith.

IN WITNESS WHEREOF, the said Inventors have executed this instrument on the date as given below and delivered this instrument to said Assignee:

June 3, 2005 (1) Debasis Bagchi

Date Debasis Bagchi (Inventor's Signature)

State of California)

County of Contra Costa)

On 6/3/05 before me, LISA Y. MAK, NOTARY PUBLIC

(*name and title of officer*)

personally appeared Debasis Bagchi, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Lisa Y. Mak

LISA Y. MAK
COMM. #1514687
Notary Public - California
Contra Costa County
My Comm. Expires Sep. 20, 2008

****

6-15-05
Date

(2) Harry G. Preuss
Harry G. Preuss (Inventor's Signature)

State of District of Columbia)
)
County of Washington, DC)

On ~~BFG~~ June 15, 2005 before me, Brenda Fay Garner (Notary public),
(name and title of officer)

personally appeared Harry G. Preuss, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Brenda Fay Garner

My Commission Expires
April 14, 2006

****

_____
Date

(3) _____
Sunny E. Ohia (Inventor's Signature)

State of _____)
)
County of _____)

On _____ before me, _____,
(name and title of officer)

personally appeared Sunny E. Ohia, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

****

_____ (2)_____

Date Harry G. Preuss (Inventor's Signature)

State of _____)

)

County of _____)

On _____ before me, _____,

(*name and title of officer*)

personally appeared Harry G. Preuss, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

****

5/27/05 (3)_____

Date Sunny E. Ohia (Inventor's Signature)

State of Texas)

)

County of Harris)

On 27th May 2005 before me, Charles E. Henry, Notary Public,

(*name and title of officer*)

personally appeared Sunny E. Ohia, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Charles E. Henry

CHARLES E. HENRY NOTARY PUBLIC STATE OF TEXAS EXPIRES 08-29-2006

****

Attorney Docket No.: IHEAL-01039US1 SRM/AGC
/1039/1039US1/1039us1.inventorship.assignment.wpd

OIPE JC108 JUN 27 2005 PATENT & TRADEMARK OFFICE

PTO/SB/96 (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.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: InterHealth Nutraceuticals Incorporated

Application No./Patent No.: 10/325,675 Filed/Issue Date: 12/20/2002

Entitled: COMPOSITIONS INCORPORATING (-)-HYDROXYCITRIC ACID, CHROMIUM, AND GYMNEMIC ACID, AND RELATED METHODS FOR PROMOTING HEALTHY BODY WEIGHT AND IMPROVING RELATED HEALTH FACTORS

InterHealth Nutraceuticals Incorporated, a Corporation
(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 014248, Frame 0432, 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 shown below:

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.

☐ Copies of assignments or other documents in the chain of title are attached.
[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, if the assignment is to be recorded 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.

_____	5/17/05
Signature	Date
Sheldon R. Meyer, Esq. Reg. No. 27,660	415.362.3800
Printed or Typed Name	Telephone Number
Attorney of Record	
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.

Attorney Docket No.: IHEAL-01039US1 SRM
srm/iheal/1039/1039US1/Stmnt Under3.73b.pdf

OIPE JC108 JUN 27 2005 PATENT & TRADEMARK OFFICE

PTO/SB/80 (11-04)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

POWER OF ATTORNEY TO PROSECUTE APPLICATIONS BEFORE THE USPTO

I hereby revoke all previous powers of attorney given in the application identified in the attached statement under 37 CFR 3.73(b).

I hereby appoint:

☑ Practitioners associated with the Customer Number: 23910

OR

☐ Practitioner(s) named below (if more than ten patent practitioners are to be named, then a customer number must be used):

Name	Registration Number	Name	Registration Number

as attorney(s) or agent(s) to represent the undersigned before the United States Patent and Trademark Office (USPTO) in connection with any and all patent applications assigned only to the undersigned according to the USPTO assignment records or assignment documents attached to this form in accordance with 37 CFR 3.73(b).

Please change the correspondence address for the application identified in the attached statement under 37 CFR 3.73(b) to:

☑ The address associated with Customer Number: 23910

OR

☐ Firm or Individual Name	Fliesler Meyer LLP		
Address	Four Embarcadero Center, Fourth Floor		
City	San Francisco	State CA	Zip 94111-4156
Country	United States		
Telephone	415.362.3800	Fax 415.362.2928	

Assignee Name and Address:

InterHealth Nutraceuticals Incorporated
5451 Industrial Way
Benicia, CA 94510

A copy of this form, together with a statement under 37 CFR 3.73(b) (Form PTO/SB/96 or equivalent) is required to be filed in each application in which this form is used. The statement under 37 CFR 3.73(b) may be completed by one of the practitioners appointed in this form if the appointed practitioner is authorized to act on behalf of the assignee, and must identify the application in which this Power of Attorney is to be filed.

SIGNATURE of Assignee of Record

The individual whose signature and title is supplied below is authorized to act on behalf of the assignee

Signature		Date	3/4/05
Name	William Seroy	Telephone	(707) 751-2800
Title	Chief Executive Officer and President		

This collection of information is required by 37 CFR 1.31, 1.32 and 1.33. 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 3 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.

Attorney Docket No.: IHEAL-00300US0 SRM
srm/iheal/300/Power of Attorney.pdf

OIPE JC106
JUN 27 2005
PATENT & TRADEMARK OFFICE

RECEIVED
JAN 16 2004
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

JANUARY 12, 2004

PTAS

102495522A

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
JAMES R. BRUEGGEMANN, ESQ.
333 SOUTH HOPE STREET, 48TH FLOOR
LOS ANGELES, CALIFORNIA 90071

RECEIVED
FEB 18 2005
FLIESLER MEYER LLP

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 07/07/2003

REEL/FRAME: 014248/0432
NUMBER OF PAGES: 4

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:
BAGCHI, DEBASIS

DOC DATE: 03/21/2003

ASSIGNOR:
PREUSS, HARRY G.

DOC DATE: 06/25/2003

ASSIGNEE:
INTERHEALTH NUTRACEUTICALS
INCORPORATED
5451 INDUSTRIAL WAY
BENICIA, CALIFORNIA 94510

SERIAL NUMBER: 10325675
PATENT NUMBER:

FILING DATE: 12/20/2002
ISSUE DATE:

Fliesler, Meyer LLP
File IHEAL-01039US1
Action Item:
Date Due:
Critical Date:
Attorney Path: SRM
Document: mpr
Verified:

ALLYSON PURNELL, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

Docket No.: 0VKH-086020

FORM PTO-1595 (Modified)
(Rev. 03-01)
OMB No. 0651-0027 (exp.5/31/2002)
P08/REV03

07-14-2003

102495522

COVER SHEET

NLY 7.707

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

Tab settings → → → ▼

To the Honorable Director of the U. Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):
Debasis Bagchi
Harry G. Preuss

OIPE JC150 JUL 07 2003 PATENT & TRADEMARK OFFICE

Additional names(s) of conveying party(ies) attached? ☐ Yes ☒ No

2. Name and address of receiving party(ies):

Name: **InterHealth Nutraceuticals Incorporated**

Internal Address: _____

Street Address: **5451 Industrial Way**

City: **Benicia** State: **CA** ZIP: **94510**

Additional name(s) & address(es) attached? ☐ Yes ☒ No

3. Nature of conveyance:

☒ Assignment ☐ Merger

☐ Security Agreement ☐ Change of Name

☐ Other _____

Execution Date: **3/21/03; 6/25/03**

4. Application number(s) or patent numbers(s):

If this document is being filed together with a new application, the execution date of the application is: _____

A. Patent Application No.(s)

10/325,675

B. Patent No.(s)

Additional numbers attached? ☐ Yes ☒ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: **James R. Brueggemann, Esq.**

Internal Address: _____

Street Address: **Sheppard, Mullin, Richter & Hampton LLP**
333 South Hope Street, 48th Floor

City: **Los Angeles** State: **CA** ZIP: **90071**

6. Total number of applications and patents involved: **1**

7. Total fee (37 CFR 3.41):.....$ **40.00**

☐ Enclosed - Any excess or insufficiency should be credited or debited to deposit account

☒ Authorized to be charged to deposit account

8. Deposit account number:

19-1853

07/11/2003 DBYRNE 00000011 191853 10325675
01 FC:8021 40.00 DA

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Steve P. Hassid _____ **July 2, 2003**

Name of Person Signing Signature Date

Total number of pages including cover sheet, attachments, and document: **4**

Mail documents to be recorded with required cover sheet information to:
Mail Stop Assignment Recordation Services

ASSIGNMENT

WHEREAS, Debasis Bagchi, Ph.D., of Concord, California and Harry G. Preuss, Ph.D., of Fairfax Station, Virginia, Assignors, have invented new and useful COMPOSITIONS INCORPORATING (-)-HYDROXYCITRIC ACID, CHROMIUM, AND GYMNEMIC ACID, AND RELATED METHODS FOR PROMOTING HEALTHY BODY WEIGHT AND IMPROVING RELATED HEALTH FACTORS, for which an application for United States Letters Patent was filed on December 20, 2002, under Serial No. 10/325,675; and

WHEREAS, Assignors believe themselves to be the original, first and sole inventors of the invention disclosed and claimed in the application for Letters Patent; and

WHEREAS, INTERHEALTH NUTRACEUTICALS INCORPORATED., a California corporation, having a place of business at 5451 Industrial Way, Benicia, California 94510, Assignee, desires to acquire by formal, recordable assignment the entire right, title and interest in and to the invention, the application, and any Letters Patent that might be granted for the invention in the United States and throughout the world;

NOW, THEREFORE, in consideration of the sum of Ten Dollars ($10.00) and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignors hereby sell, assign and transfer to Assignee, the entire right, title and interest in and to the invention, the application, and any Letters Patent that might be granted for the invention in the United States and throughout the world, including the right to file foreign applications directly in the name of Assignee and to claim for any such foreign applications any priority rights to which such applications are entitled under international conventions, treaties or otherwise.

Further, Assignors agree that, upon request and without further compensation, but at no expense to Assignor, they and their legal representatives and assigns will perform all lawful acts, including the execution of papers and the giving of testimony, that might be necessary or desirable for obtaining, sustaining, reissuing or enforcing Letters Patent in the United States and throughout the world for the invention, and for perfecting, recording or maintaining the title of Assignee, its successors and assigns, to the invention, the application, and any Letters Patent granted for the invention in the United States and throughout the world.

Assignors represent and warrant that they have not granted and will not grant to others any rights inconsistent with the rights granted by this Assignment.

Assignors authorize and request the Commissioner of Patents and Trademarks of the United States and of all foreign countries to issue any Letters Patent granted for the invention, whether on the application or on any subsequently filed division, continuation, continuation-in-part or reissue application, to Assignee, its successors and assigns, as the assignee of the entire interest in the invention.

IN WITNESS WHEREOF, Assignors have executed this Assignment.

Assignors

Date: 3/21/03

Debasis Bagchi

Debasis Bagchi, Ph.D.

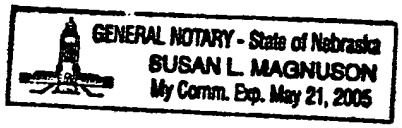
State of Nebraska)
) ss.
County of Douglas)

On this 21st day of March, in the year of 2003, before me personally appeared Debasis Bagchi, Ph.D. personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged to me that he executed it.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year of this certificate first above written.

Susan L. Magnuson

Notary Public in and for Said
County and State



Date: 6-25-03

Harry G. Preuss, Ph.D.

State of District of Columbia
County of Washington) ss.

On this 25th day of June, in the year of 2003, before me personally appeared Harry G. Preuss, Ph.D., personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged to me that he executed it.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year of this certificate first above written.

Notary Public in and for Said
County and State

My Commission Expires
April 14, 2006

WP8-LA:LC0\70524616.1

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JJGJR.: 08-06

Paper No: __

HENRY M. FEIEREISEN
SUITE 4714
350 FIFTH AVENUE
NEW YORK NY 10118

COPY MAILED

AUG 17 2006

OFFICE OF PETITIONS

In re Application of :
Zellerohr, et al. :
Application No. 10/325,679 :
Filing Date: 23 December, 2002 :
Attorney Docket No.: ZELLEROHR-2 :

DECISION

This is a decision on the petition filed on 8 June, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **GRANTED**.

NOTE:

The Notice of Change of Address hereby is acknowledged and had been entered.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 26 April, 2005, with reply due absent extension of time on or before 26 July, 2005;

- on 14 December, 2005,[1] Petitioner filed a request and fee for extension of time and a after-final amendment–which, Petitioner, as one registered to practice before the Office, is aware is not of right, and thus is not a proper reply[2] to a final Office action–and the Examiner did not enter the reply and mailed an Advisory Action on 23 December, 2005;

- the instant application went abandoned by operation of law after midnight 26 July, 2005;

- the Office mailed a Notice of Abandonment on 29 December, 2005;

- on 8 June, 2006, Petitioner filed the instant petition (with fee), reply in the form of a request for continued examination (RCE) with fee, an amendment as the submission under 37 C.F.R.§1.114, and made the statement of unintentional delay.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

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[1] Petitioner apparently attempted to file the amendment on or about 26 July, 2005, however, Petitioner did so into the incorrect application, to wit: 10325,697, rather into the correct application 10/325,679.

[2] 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).)

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

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

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

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

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of

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).[4]

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.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] 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).[7] And the Petitioner must be diligent in attending to the matter.[8] Failure to do so does not

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information or belief.
(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of—
(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.
(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[4] 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.

[5] 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.

[6] 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).

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

[8] 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.

constitute the care required under Pratt,[9] 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.[10]))

As to the Allegation
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

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

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

---

[9] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

[10] 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.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[11]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[11] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB -3 2004

Paper No. 7

In re Application of	:	
Richard J. Morris et al.	:	
Serial No. 10/325,682	:	DECISION ON PETITION
Filed: December 20, 2002	:	TO MAKE SPECIAL
For: INDUSTRIAL REEL WRAP WITH SCORED FOLDING	:	

Applicant's petition, filed June 2, 2003, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Patterson, Thuente, Skaar & Christensen, PA
4800 IDS Center
80 South 8th Street
Minneapolis, MN 55402-2100

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAN - 6 2004

David P. Halstead
Ropes & Gray LLP
On International Place
Boston, MA 02110

In re Application of
Senanayake et al
Serial No.: 10/325,686
Filed: December 20, 2002
Attorney Docket No.: SEPR-P01-073

: Decision on Petition

This is in response to applicants' "Petition Under 37 CFR 1.48(a)" filed on November 6, 2003.

Applicant's statement has been reviewed. The petition is granted. The inventorship has been changed to:

Chris H. Senanayake,
Gerald J. Tanoury,
Harold S. Wilkinson,
Roger P. Bakala,
Andrei A. Zlota, and
Kostas Saranteas, Peabody, Massachusetts

Petition GRANTED.

Should there be any questions with respect to this decision, please contact Cecilia Tsang, by mail addressed to: Director, Technology Center 1600, Alexandria, VA 22313-1450, or by telephone at (703) 308-0254 or by facsimile transmission at (703) 305-7230.

Cecilia Tsang
Special Program Specialist, TC1600

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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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND OH 44114-3108

MAILED

MAY 26 2010

OFFICE OF PETITIONS

In re Patent No. 7,144,535	:	
Issue Date: December 5, 2006	:	
Application No. 10/325,695	:	ON PETITION
Filed: December 19, 2002	:	
Attorney Docket No. BUG-46516	:	

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

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
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

In re:	TACKE et al.	:DECISION ON REQUEST
Petition No.:	10/325,705	:UNDER 37 CFR 5.25
Petition Filing Date:	February 25, 2003	

Title: SUPPORTED CATALYST

This is a decision on the petition for retroactive foreign filing license.

It has been determined that a retroactive license for foreign filing under 35 U.S.C. 184 be granted with respect to the filing(s) listed below. The petition complies with 37 C.F.R. 5.25 in that there is an adequate showing that the subject matter in question was not under secrecy order, that the license was diligently sought, and that the material was filed abroad without the required license under 37 C.F.R 5.11 through error and without deceptive intent. However, *for future reference*, it should be noted that not determining inventorship until later in the prosecution process based on mere reliance on German (or any other country other than the U.S.) law, is not within the meaning of "error" as provided in 37 CFR 5.25(a)(3)(iii), and further explanation will be required.

Country	Date
Germany	December 21, 2001

Yvonne R. Abbott
Patent Examiner
Licensing & Review
(703) 308-2866

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

In re Application of Su :
Application No. 10/325,708 : Decision on Petition
Filing Date: December 20, 2002 :
Attorney Docket No. 2032 (227053) :

This is a decision on the petition under 37 CFR 1.181, filed September 18, 2007, to withdraw the holding of abandonment.

The petition is **granted.**

Facts:

The Office mailed a non-final Office action on December 28, 2006.

The non-final Office action was returned undelivered by the United States Postal Service on January 9, 2007.

The Office did not receive a reply to the non-final Office action. As a result, a Notice of Abandonment was mailed September 20, 2007.

Discussion:

MPEP 707.13 states,

> Office actions are sometimes returned to the Office because the United States Postal Service has not been able to deliver them. Upon receipt of the returned Office action, the Technology Center (TC) technical support staff will check the application file record to ensure that the Office action was mailed to the correct correspondence address. If the Office action was not mailed to the correct correspondence address, it should be stamped "remailed" with the remailing date and mailed to the correct correspondence address. The period running against the application begins with the date of remailing. If the Office action was mailed to the correct correspondence address and it was addressed to an attorney or agent, a letter along with a copy of the Office action may be sent to the first named inventor or assignee (if available) informing him or her of the returned action. The time period for reply to the Office action will be restarted to run from the mailing date of the letter informing applicant of the returned action.

> If the Office is not finally successful in delivering the letter, it is placed, with the envelope, in the file wrapper. For an Image File Wrapper (IFW), a copy of the letter and a copy of the envelope should be added to the IFW (see IFW Manual). If the period dating from the remailing elapses with no communication from applicant, the application is abandoned.

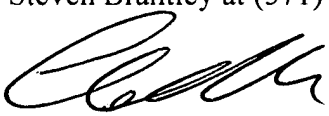
Per MPEP 707.13, the Office should have mailed a copy of the Office action to the first named inventor or the assignee resetting the time period to respond rather than hold the application abandoned.

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

The "Change of Correspondence Address" filed September 18, 2007, has been accepted and entered.

Technology Center Art Unit 2616 will be informed of the instant decision. Thereafter, the Technology Center's technical support staff will mail a new copy of the previously mailed non-final Office action. The time period for responding to the new Office action will be set to run from the mailing date of the new Office action.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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TECHNOLOGY CENTER 2100

Paper No. 3

Paul J. Skwierawski
ANTONELLI, TERRY, STOUT &
KRAUS, LLP
1300 North Seventeenth Street, Suite 1800
Arlington, VA 22209

In re Application of:)
L. Gass)
Application No. 10/325,734) **DECISION ON REQUEST FOR**
Filed: December 23, 2002) **WITHDRAWAL AS ATTORNEY**
For: METHOD AND APPARATUS FOR)
ENHANCED PARALLEL PORT
JTAG INTERFACE

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.

for James R. Matthews

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

cc: Anne Richards
SCHWEGMAN, LUNDBERT, WOESSNER &
KLUTH P.A.
1600 TCF Tower
121 S. 8th Street
Minneapolis, MN 55402

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DORSEY & WHITNEY LLP
1001 PENNSYLVANIA AVENUE, N.W.
SUITE 400 SOUTH
WASHINGTON, DC 20004

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MAY 0 6 2004

OFFICE OF PETITIONS

In re Application of :
Guoping Zhang :
Application No. 10/325,742 : DECISION ON PETITION
Filed: December 23, 2002 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 12126D1.00 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed February 10, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/203,326, filed May 11, 2000.

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 23, 2002. Intermediate Application No. 09/852,033 was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/203,326, which was filed on May 11, 2000, for which priority is claimed. A reference to the prior-filed provisional application has been included in an Application Data Sheet.

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. 60/203,326 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.

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

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

The examiner of Technology Center AU 2859 will consider the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/203,326, filed May 11, 2000.

Karen Creasy

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

ATTACHMENT: Corrected Filing Receipt

cc:

NIXON PEABODY, LLP
401 9TH STREET, N.W., SUITE 900
WASHINGTON, DC 20004-2128

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OFFICE OF PETITIONS

LINIAK BERENATO & WHITE
6550 ROCK SPRING DRIVE, SUITE 240
BETHESDA, MD 20817

In re Application of :
Ouqi Zhang et al :
Application No. 10/325,743 : DECISION GRANTING PETITION
Filed: December 23, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 08200.738 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 14, 2004, to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

The instant nonprovisional application is the subject of an application filed in an eighteen month publication country on December 22, 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 October 14, 2004 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center Art Unit 3616 for examination in due course.

Frances Hicks

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

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OFFICE OF PETITIONS

In re Patent No. 6,849,674 :
Issue Date: February 1, 2005 :
Application No. 10/325,748 : ON PETITION
Filed: December 23, 2002 :
Attorney Docket No. 100021-00109 :

This is a decision on the petition filed March 14, 2005, 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

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MAIER & NEUSTADT PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of
Tokumasa Hara et al
Application No. 10/325,753
Filed: December 23, 2002
Attorney Docket No. 232077US2S

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed July 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 July 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]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

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 Information Disclosure Statement.

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

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

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ALEXANDRIA, VA 22314

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Initials/Date Docketed: 7/27/04
Type of Resp(s):
Due Date(s):

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OFFICE OF PETITIONS

In re Application of
Tokumasa Hara et al
Application No. 10/325,753
Filed: December 23, 2002
Attorney Docket No. 232077US2S

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed July 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 July 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]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

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 Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
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

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OFFICE OF PETITIONS

In re Application of	:	
Keijiro Hijikata	:	
Application No. 10/325,755	:	ON PETITION
Filed: December 23, 2002	:	
Attorney Docket No. 232090US2S	:	

This is a decision on the petition, filed August 18, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

The examiner of Technology Center AU 2824 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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[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).

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,808,363	2004-10-26	10/325,760	2002-12-20	13DV13753

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	/mm52020/	Date (YYYY-MM-DD)	2008-11-05
Name	Mardson McQuay	Registration Number	52020

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 6808363
Issue Date: October 26,2004
Application No. 10325760
Filed: December 20,2002
Attorney Docket No. 13DV13753

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

This is a decision on the electronic petition, filed November 5,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 5,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in 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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SCHMEISER, OLSEN & WATTS
22 CENTURY HILL DRIVE
SUITE 302
LATHAM, NY 12110

MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of :
Fernando Daniel Pedrazzoli Pazos :
Application No. 10/325,771 : DECISION ON PETITION
Filed: December 19, 2002 :
Attorney Docket No. FR920010087US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 21, 2009, to revive the above-identified application.

This application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action of June 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 and fee; (2) the petition fee of 1,620; and (3) a proper statement of unintentional delay. Therefore, 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.

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

This application is being referred to Technology Center Art Unit 3689 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

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

Paper No. 6

RANDOLPH J. HUIS
VOLPE AND KOENIG P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

COPY MAILED

AUG 2 0 2003

OFFICE OF PETITIONS

In re Application of :
Schweizer Manfred :
Application No. 10/325,775 : NOTICE
Filed: December 19, 2002 :
Attorney Docket No. HRG-PT008 :

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 3700.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

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JUL 12 2004

OFFICE OF PETITIONS

In re Application of	:	
Kim, et al.	:	DECISION GRANTING
Application No. 10/325,777	:	PETITION
Filed: December 18, 2002	:	
Attorney Docket No. 8111-027-999	:	

This is a decision on the petition under 37 CFR 1.10(c), filed June 3, 2004, requesting that the above-identified application be accorded a filing date of December 18, 2002, rather than the presently accorded filing date of December 19, 2002.

Petitioners allege that the application was deposited in Express Mail service on December 18, 2002. In support, the petition is accompanied by a copy of Express Mail Receipt No. EL451599156US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of December 18, 2002.

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

Accordingly, the application is entitled to a filing date of December 18, 2002.

Since the instant petition has been granted, no petition fee is required.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of December 18, 2002 and issuance of a corrected filing receipt.

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

HARD Files

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/15/06

TO SPE OF : ART UNIT 2162

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/335780 Patent No.: 7051034

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

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

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

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext.

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: The changes are accepted. IT

Anh Ly 08/24/06

9/6/06 Approved. [redacted]

John E. Breene 2162

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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IBM CORPORATION
INTELLECTUAL PROPERTY LAW DEPT.
P.O. BOX 218
YORKTOWN HEIGHTS, NY 10598

COPY MAILED

AUG 15 2008

In re Application of :
Jan Camenisch, et. al. :
Application No. 10/325,790 : ON PETITION
Filed: December 19, 2002 :
Attorney Docket No. CH920010058US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 8, 2008, to revive the above-identified application.

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 Wendell A. Peete, Jr. appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

The petition is **DISMISSED**.

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

The application became abandoned for failure to file a reply within the meaning of 37 CFR 1.113 to the final Office action mailed December 21, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted on January 8, 2008, does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). A courtesy copy of the Advisory Action is being mailed with this decision on petition.

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) is 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.

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.**

If Mr. Peete desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

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

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Courtesy Copy of the Advisory Action

cc: Wendell A. Peete, Jr.
Cantor Colburn, LLP-IBM Yorktown
20 Church Street
22nd Floor
Hartford, CT 06103

Advisory Action Before the Filing of an Appeal Brief	**Application No.**	**Applicant(s)**	
	10/325,790	CAMENISCH ET AL.	
	Examiner	**Art Unit**	
	ALI S. ABYANEH	2137	

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

THE REPLY FILED 08 January 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) The period for reply expires 3 months from the mailing date of the final rejection.

b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

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

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

NOTICE OF APPEAL

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

AMENDMENTS

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

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. Applicant's reply has overcome the following rejection(s): ___.

6. Newly proposed or amended claim(s) ___ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: ___.
Claim(s) objected to: ___.
Claim(s) rejected: *1-20*.
Claim(s) withdrawn from consideration: ___.

AFFIDAVIT OR OTHER EVIDENCE

8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
___.
12. Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). ___

13. Other: ___.

U.S. Patent and Trademark Office

PTOL-303 (Rev. 08-06) 20080812 **Advisory Action Before the Filing of an Appeal Brief** Part of Paper No.

Continuation of 3. NOTE: Applicants have amended the claims after a final rejection, which require further consideration and/or search.

For example claim 1 has been amended to include "creating an archive at a credential-granting service for the storage of prime number values that are associated with the membership certificates of respective user devices whose credentials have been revoked; identifying a user device whose privileges are to revoked; retrieving the prime number value that is associated with the membership certificate of the identified user device; updating an accumulator value utilizing the retrieved prime number value; and storing the retrieved prime number value at the archive dedicated to the storage of prime number values that are associated with user devices whose credentials have been revoked". Amendments to the claims have changed the scope of the claims and require further consideration/or search.

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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CANTOR COLBURN, LLP
20 CHURCH STREET
22ND FLOOR
HARTFORD, CT 06103

COPY MAILED

DEC 0 3 2008

OFFICE OF PETITIONS

In re Application of :
Jan Camenisch, et. al. :
Application No. 10/325,790 : ON PETITION
Filed: December 19, 2002 :
Attorney Docket No. CH920010058US1 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed on October 10, 2008, to revive the above-identified application.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Greg O'Bradovich appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

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

The renewed petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114 with the $810 fee and an amendment; (2) the petition fee of $1,540 (previously submitted January 8, 2008); and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Change of Correspondence Address filed on October 10, 2008 has been accepted and made of record.

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

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
DIW Oct-06

TOM VAN ZANDT
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES CA 90025-1030

COPY MAILED
OCT 23 2006
OFFICE OF PETITIONS

In re Application of :
Doug Lauder : DECISION ON PETITION
Application No. 10/325,811 :
Filed: 18 December, 2002 :
Atty Docket No. 03007.P005 :

This is a decision on the petition, filed on 17 July, 2006, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on 18 December, 2003. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(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 present 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)(i) has been rescinded.

A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of 1 February, 2007, is enclosed herewith.

The application is being referred to Technology Center Art Unit 2155 for examination in due course.

Any inquiries concerning this decision may be directed to the undersigned at 571.272.3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/325,811	12/18/2002	Doug Lauder	3007P005

CONFIRMATION NO. 3895

Tom Van Zandt
Blakely, Sokoloff, Taylor & Zafman LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1030

Date Mailed: 10/23/2006

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 02/01/2007.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/325,815	12/18/2002	3632	1020	11038-057-999	2	13	3

CONFIRMATION NO. 3887

24341
Pennie & Edmonds, LLP
3300 Hillview Avenue
Palo Alto, CA 94304

CORRECTED FILING RECEIPT

OC000000011298620

Date Mailed: 11/18/2003

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

Applicant(s)

Sang-Kyun Kim, Ulsan-City, KOREA, REPUBLIC OF;

Domestic Priority data as claimed by applicant

Foreign Applications

REPUBLIC OF KOREA 2002-29888 05/29/2002

If Required, Foreign Filing License Granted: 02/11/2003

Projected Publication Date: 12/04/2003

Non-Publication Request: No

Early Publication Request: No

Title

Dummy storage and transport device

Preliminary Class

248

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

COPY MAILED

JAN 24 2008

OFFICE OF PETITIONS

In re Application	:	
Zhu, et al.	:	
Application No. 10/325,896	:	DECISION ON APPLICATION
Filed: December 19, 2002	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. IN0119K3	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. 1.705(b)", filed May 4, 2007. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be increased from the currently accorded two hundred eighty-one (281) days to three hundred ninety-three (393) days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein. However, applicants' request that the patent term be increased due to the Office's failure to issue a patent within three years is being **HELD IN ABEYANCE** until after the actual patent date.[1]

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **two hundred forty-six (246) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

---

[1] Applicants should note that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period of pendency before the Office except for periods excluded under 35 U.S.C. (b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A).

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date. A decision is being held in abeyance until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See 37 C.F.R. § 1.703(b).

Patentee is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Patentee may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of 37 C.F.R. § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

On February 7, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is two hundred eighty-one (281) days. On May 4, 2007, Applicants timely[2] submitted the instant application for patent term adjustment.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of two hundred eighty-one (281) days based on an adjustment of four hundred (400) days of PTO delay pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1) and sixty-two (62) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. §1.703(a)(2), reduced by applicants' delays of ninety (90) and ninety-one (91) days, both pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b).

Applicants point out that a non-final Office action was listed in PAIR as being mailed on July 13, 2006, when it was actually mailed on July 12, 2006. However, a review of PAIR reveals that it is consistent with the official record - the Office action was mailed on July 12, 2006, for which PTO delay of sixty-two (62) days was properly assessed. Applicants might have confused this

---

[2] Applicants filed the application for patent term adjustment prior to paying the issue fee.

Office action with the one mailed July 13, 2005.

Applicants also point out that they should have been assessed additional delay of thirty-five (35) days pursuant to 37 C.F.R. 1.704(c)(8) for filing a Supplemental IDS on February 15, 2006. A review of Office records reveals this to be correct. The Office thanks Applicants for their good faith and candor in bringing this matter to the Office's attention.

Lastly, Applicants point out that they filed a response to a March 25, 2005 Office action on April 26, 2005, not April 27, 2005. The date is noted. However, either date is timely under 37 C.F.R. 1.704(b), and thus had no bearing on the determination of patent term adjustment.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **two hundred forty-six (246) days** (462 (400+62) days of PTO delay, reduced by 216 (90+35+91) days of applicant delay).

The $200 fee set forth in 37 C.F.R. § 1.18(e) has been charged to Deposit Account No. 19-0365, as authorized.

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

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

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

Day : Wednesday

PALM INTRANET

Date: 1/23/2008
Time: 15:23:24

PTA Calculations for Application: 10/325896			
Application Filing Date:	12/19/2002	PTO Delay (PTO):	462
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	181
Post-Issue Petitions:	0	Total PTA (days):	246
PTO Delay Adjustment:	-35		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
65	01/23/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		35	
45	02/07/2007	MAIL NOTICE OF ALLOWANCE			
44	02/05/2007	ISSUE REVISION COMPLETED			
43	02/05/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
42	02/05/2007	CASE DOCKETED TO EXAMINER IN GAU			
41	02/05/2007	NOTICE OF ALLOWABILITY			
40	01/11/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
39	01/11/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	37
38	01/24/2007	DATE FORWARDED TO EXAMINER			
37	01/11/2007	RESPONSE AFTER NON-FINAL ACTION		91	34
36	01/11/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
35	01/15/2007	CASE DOCKETED TO EXAMINER IN GAU			
34	07/12/2006	MAIL NON-FINAL REJECTION	62		25
33	07/10/2006	NON-FINAL REJECTION			
32	01/11/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	01/11/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	07/05/2006	CASE DOCKETED TO EXAMINER IN GAU			
29	02/07/2006	CASE DOCKETED TO EXAMINER IN GAU			
28	01/11/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	25
27	01/11/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

26	01/25/2006	DATE FORWARDED TO EXAMINER			
25	01/11/2006	RESPONSE AFTER NON-FINAL ACTION		90	23
24	01/11/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
23	07/13/2005	MAIL NON-FINAL REJECTION			
22	07/11/2005	NON-FINAL REJECTION			
21	05/06/2005	DATE FORWARDED TO EXAMINER			
20	04/27/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
19	04/27/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
18	03/25/2005	MAIL RESTRICTION REQUIREMENT	400		-1
17	03/18/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
16	01/27/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	03/22/2004	REFERENCE CAPTURE ON IDS			
14	03/22/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	11/17/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	08/08/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	08/21/2003	CASE DOCKETED TO EXAMINER IN GAU			
10	04/16/2003	APPLICATION DISPATCHED FROM OIPE			
9	04/15/2003	APPLICATION IS NOW COMPLETE			
8	03/18/2003	ADDITIONAL APPLICATION FILING FEES			
7	03/18/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	01/31/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	01/29/2003	CLEARED BY L&R (LARS)			
3	01/27/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	12/31/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/19/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

GARD AND KASLOW, LLP
ONE 1ST STREET
SUITE 9
LOS ALTOS, CA 94022

In re Application of :
Robert A. Olson, et al. :
Application No. 12/325,896 : DECISION ON PETITION
Filed: September 1, 2008 :
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 27, 2009, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice), mailed December 10, 2008. 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 application became abandoned on February 11, 2009.

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

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

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Office of Patent Application Papers at their hotline 571-272-4100.

This application is being referred back to the Office of Patent Application Papers for pre-examination processing of the reply received July 27, 2009.

April M. Wise
Petitions Examiner
Office of Petitions

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LITMAN LAW OFFICES, LTD
PO BOX 15035
CRYSTAL CITY STATION
ARLINGTON, VA 22215

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DEC 13 2005

OFFICE OF PETITIONS

In re Application of :
John R. Peterson :
Application No. 10/325,914 :
Filed: December 23, 2002 : ON PETITION
Attorney Docket No.: :
21780.00 :

This is a decision on the Petition for Withdrawal of the Holding of Abandonment, filed November 25, 2005. The petition is properly treated under 37 CFR 1.181.

The petition is **granted.**

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed April 13, 2005. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the above-identified application became abandoned August 7, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

Applicant's Assertion

Applicant avers non-receipt of the non-final Office action. In support, Applicant has provided the necessary statements and copies of the docket record where the non-received Office action would have been entered had it been received and docketed. Applicant has demonstrated by a preponderance of the evidence that the non-final Office action was not received.

The Notice of Abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application file is being referred to Technology Center 1772 for remailing of the non-final 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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HUMAN GENOME SCIENCES INC
INTELLECTUAL PROPERTY DEPT.
14200 SHADY GROVE ROAD
ROCKVILLE MD 20850

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OCT 28 2005

OFFICE OF PETITIONS

In re Application of :
Soppet et al. :
Application No. 10/325,930 : DECISION ON PETITION
Filed: 23 December, 2002 :
Atty Docket No. PF128D2C2 :

This is a decision on the petition filed 26 July, 2005, to withdraw the holding of abandonment of the above-identified application.

The application was held abandoned for failure to respond in a timely manner to the nonfinal Office action mailed on 9 December, 2004. A Notice of Abandonment was mailed on 6 July, 2005.

Petitioners assert that a proper response was in fact timely filed in the form of an amendment. In support of the petition, petitioners submitted a copy of a Certificate of Transmission under 37 CFR 1.8 stating that an amendment, six (6) sheets of drawings, and a three (3) month extension of time were transmitted by facsimile to the Office of 8 June, 2005.

Under 37 C.F.R. § 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 C.F.R. § 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 C.F.R. § 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 bears a proper certificate of transmission in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above. Additionally, petitioner has provided a copy of the sending unit's transmission report, showing that 22 pages were transmitted to the USPTO on 8 June, 2005. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

In accordance with the above finding, the holding of abandonment is withdrawn, and the Notice of Abandonment mailed on 6 July, 2005, is vacated.

The application file will be forwarded to the Technology Center=s technical support staff for entry of the amendment. Thereafter, the application file will be forwarded to the examiner for action in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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JAN 14 2010

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of	:	DECISION ON PETITION
Asami YOSHIDA et al.	:	UNDER 37 CFR 1.181
Application No. 10/325,940	:	
Filed: December 23, 2002	:	
For: INFORMATION PROCESSING	:	
APPARATUS AND INFORMATION	:	
PROCESSING METHOD	:	

This is in response to applicants' petition under 37 CFR 1.181 filed September 18, 2009 requesting consideration of the Information Disclosure Statement (IDS) filed August 23, 2007.

The petition is **DISMISSED AS MOOT**.

A review of the record reveals that the examiner did consider the IDS as indicated in the miscellaneous communication to applicant mailed October 27, 2009.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Andrew Fischer at (571) 272-6779.

Wynn Coggins, Director
Technology Center 3600
(571) 272-5350

lm: 1/8/10
LM

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SEP 28 2005

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

In re Application of	:
Toshikazu Kamiya et al	:
Serial No.: 10/325,965	: PETITION DECISION
Filed: December 23, 2002	:
Attorney Docket No.: 00005.001213	:

This is in response to the petition under 37 CFR 1.181, filed August 26, 2005, for withdrawal of abandonment of the above identified application based on filing of a timely reply.

A review of the file history shows that the examiner mailed a Final Office action to applicants on December 21, 2004, setting a three month shortened statutory period for reply. Applicants replied on May 17, 2005, with amendments to the claims and arguments. The examiner mailed an Advisory Action to applicants on June 6, 2005, denying entry of the amendment. On June 17, 2005, applicants filed RCE papers including a three month extension of time and a request for entry of the amendment submitted May 17, 2005. The application was held abandoned on August 11, 2005, for failure to reply to the Final Office action. In view of applicants' fulfillment of the RCE requirements, the Notice of Abandonment was mailed in error and is withdrawn and the application is restored to pending status with the mailing of this decision

The petition is **GRANTED**.

The application will be forwarded to the examiner for further consideration.

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

Bruce M. Kisliuk
Director, Technology Center 1600

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REED & EBERLE LLP
800 MENLO AVENUE, SUITE 210
MENLO PARK, CA 94025

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OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Robert H. Grubbs	:	
Application No. 10/325,998	:	
Filed: December 19, 2002	:	
Attorney Docket No. 020072/0268961(CIT 2123-4	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 18, 2004, to withdraw the above-identified application from issue after payment of the issue fee. See 1233 *Official Gazette* 54 (April 11, 2000).

The petition is **DISMISSED as moot.**

Unfortunately, the petition did not reach the appropriate official for a decision until after the above-identified application issued as U.S. Patent No. 6,806,325. Any inconvenience caused petitioners is regretted.

The Request for Continued Examination (RCE) deposited on October 18, 2004, is considered an improper submission under 37 CFR 1.114 and will not be further processed. The RCE filing fee will not be charge to counsel's deposit account.

The information disclosure statement (IDS) has been placed in the file of the above-identified application without further consideration. See 37 CFR 1.97(i).

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

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

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
1400 PAGE MILL ROAD
PALO ALTO CA 94304-1124

In re Patent No. 6,806,325, GRUBBS ET AL
Issue Date: October 19, 2004
Appl No.: 10/325,998
Filed: December 19, 2002
For: Correction of Inventorship

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed February 17, 2006, to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

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

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2790 COLUMBUS ROAD
GRANVILLE OH 43023

In re Application of :
David R. Hartman et al. :
Application No. 10/326,003 : DECISION ON PETITION
Filed: December 19, 2002 :
Attorney Docket No.: 25256A :

This is a decision on the petition under 37 CFR 1.137(a), filed April 13, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned on March 10, 2006, for failure to timely submit the issue fee as required by the Notice of Allowance and Issue Fee Due mailed December 9, 2005, which set a three (3) month statutory period for reply. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The present petition was filed with an authorization to charge the petition fee, issue fee, and publication fee. Petitioner asserts that the issue fee was not timely paid because the docket clerk was not aware of the new facsimile number and mistakenly faxed the issue fee transmittal to the previous fax number.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with §

> 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
> (2) the petition fee as set forth in § 1.17(l);
> (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
> (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks items (3) above.

SHOWING OF UNAVOIDABLE DELAY

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable

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[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

employees, the response is not timely received in the Office.[2]

The showing of record is that the delay in payment of the issue fee occurred because of a mistake and because of the failure of the petitioner to update the facsimile number for the USPTO to the current number which has been in use at least since July 2005. The failure to pay the issue fee when due is not therefore based on a circumstance that could have been avoided had the petitioner been more diligent.

Petitioner has therefore not established that the delay was unavoidable. Rather than unavoidable delay, the record indicates a lack of diligence on the part of petitioner in maintaining accurate contact information for the USPTO. In order to establish unavoidable delay, petitioner must demonstrate diligence in prosecution of the matter,[3] and the record does not establish that petitioner took all action necessary for prosecution of this application in satisfaction of 37 CFR 1.137(a). As petitioner has presented no showing of unavoidable delay, the petition will be dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b)[4], which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional

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[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[3] See Douglas v. Manbeck, 21 USPQ2d 1697, 1700 (E.D. Pa. 1991), aff'd 975 F.2d 869, 24 USPQ2d 1318 (Fed. Cir. 1992).

[4] 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)).

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). A petition under 37 CFR 1.137 (b) also carries with it a petition fee of $750.00 for a small entity and $1500.00 for a large entity and the $250.00 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
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
David R. Hartman et al. :
Application No. 10/326,003 : ON PETITION
Filed: December 19, 2002 :
Attorney Docket No. 25256A :

This is a decision on the petition filed May 12, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

This application became abandoned March 10, 2006 for failure to timely pay the issue fee on or before March 9, 2006. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The issue fee, publication fee and petition fee have all been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

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New York NY 10036

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OFFICE OF PETITIONS

In re Application of :
CASTELHANO et al. :
Application No. 10/326,005 : ON PETITION
Filed: 12/20/2002 :
Attorney Docket No. 66449-A/JPW/GJG/JBC :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 19, 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 final Office action, mailed September 19, 2005, which set a shortened statutory period for reply of three (3) months. Petitioner obtained a request for an extension of time for response within the third month under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on March 20, 2006. The Office mailed a Notice of Abandonment on September 22, 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 continuing application under 37 CFR 1.53(b); (2) the petition fee; and (3) a proper statement of unintentional delay.

The application papers submitted with the petition will be processed by the Office of Patent Application Processing as a continuation application filed on June 19, 2007, and assigned Application No. 10/536,119. A filing receipt is forthcoming. The above-captioned application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuation Application No. 10/536,119.

The $2,000 claim fee will be transferred from Application No. 10/326,005 to Application No. 10/536,119.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
10/326,014	12/18/2002	2838	740	11037-099-999	4	8	3

CONFIRMATION NO. 5062

24341
Pennie & Edmonds, LLP
3300 Hillview Avenue
Palo Alto, CA 94304

CORRECTED FILING RECEIPT

OC000000011080193

Date Mailed: 10/22/2003

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

Applicant(s)

Jae-Seung Koo, Suwon-city, KOREA, REPUBLIC OF;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 03/27/2003

Projected Publication Date: 06/24/2004

Non-Publication Request: No

Early Publication Request: No

Title

Method for resetting a state of charge fo a battery of a hybrid electric vehicle

Preliminary Class

320

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

GRANTED

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

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

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

NOT GRANTED

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

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HICKORY, NC 28603

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JUN 30 2005

OFFICE OF PETITIONS

In re Application of :
Jason C. Lail et al :
Application No. 10/326,022 : DECISION GRANTING PETITION
Filed: December 19, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. C0025 :

This is a decision on the petition, filed June 23, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 11, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2839 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[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 : 8/10/06

TO SPE OF : ART UNIT 2839

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/326022 Patent No.: 6970629

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

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

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

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext.

Thank You For Your Assistance

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

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

Comments: All changes are approved except "Claim 1, Col. 8 line 1", which should be -- Claim 4, Col. 8 line 1 -- (The communication was made to the applicant's representative on 8-23-07 and was accepted by the applicant).

T. Patel — SPE

2839 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,970,629 B2
APPLICATION NO. : 10/326022
DATED : November 29, 2005
INVENTOR(S) : Jason C. Lail et al.

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

Claim 2, col. 8, line 2, delete "foam tape" and insert "at least one dry insert" therefor;

Claim 4, col. 8, line 1, after "claim 1," insert "the at least one dry insert comprising a compressible layer and at least one water-swellable layer, wherein";

Claim 4, Col. 8 line 1, after "the" insert "at least one";

Claim 4, Col. 8 line 2 delete "being" and insert "is" therefor;

Claim 17, Col. 8 line 1 after "the" insert "at least one";

Claim 18, Col. 8 line 7, after the second "the" insert "at least one";

Claim 21 Col. 9 line 1, after "the" insert "at least one";

Claim 22 Col. 9 line 1, after "the" insert "at least one";

Claim 25, Col. 9 line 1 after "the" insert "the compressible layer of";

Claim 34, Col. 9 line 1 after "the" insert "at least one";

Claim 37, Col. 9 line 1 delete "30" and insert "35" therefor;

Claim 39 Col. 10 line 1, after "the" insert "at least one";

Claim 40 Col. 10 line 1, after "the" insert "at least one";

Claim 43, Col. 10, line 1, after "the" insert "the compressible layer of";

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,970,629 B2
APPLICATION NO. : 10/326022
DATED : November 29, 2005
INVENTOR(S) : Jason C. Lail et al.

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

Claim 47, Col. 10 line 2 delete "at least two" and insert "more than two".

Signed and Sealed this

Twenty-second Day of August, 2006

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

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OFFICE OF PETITIONS

In re Application of :
Michael Bertoja et al :
Application No. 10/326,024 : ON PETITION
Filed: December 19, 2002 :
Attorney Docket No. 68.0356 :

This is a decision on the petition, filed June 9, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on April 19, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3672 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. _____

Date : June 12, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Michael Bertoja et al
Application No. :10/326,024
Filed :December 19, 2002

The above-identified application has been assigned Patent No. 7,059,412 and an issue date of June 13, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of June 13, 2006:

> "All reference to Patent No. 7,059,412 to Michael Bertoja et al of Texas for TECHNIQUE FOR PREVENTING DEPOSITION PRODUCTS FROM IMPEDING THE MOTION OF A MOVABLE COMPONENT appearing in the Official Gazette of June 13, 2006 should be deleted since no patent was granted."

Karen Creasy

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

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

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Paper No.

NICKOLAS E. WESTMAN
WESTMAN CHAMPLIN & KELLY
INTERNATIONAL CENTRE - SUITE 1600
900 SOUTH SECOND AVENUE
MINNEAPOLIS MN 55402-3319

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JUL 0 2 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Larry E. Albright et al :
Application No. 10/326,027 :
Filed: December 19, 2002 :
Attorney Docket No. M297.12-0194 :

This is a decision on the petition, filed June 28, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 7, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3612 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/326,038	12/19/2002	Greg G. Griese	1149.1115101	4449

28075 7590 01/12/2005

CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

EXAMINER	
PETRUNCIO, JOHN M	

ART UNIT	PAPER NUMBER
1751	

DATE MAILED: 01/12/2005

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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1/11/05

In re Application of	:	
Greg G. Griese	:	NOTICE OF WITHDRAWAL
Serial No. 10/326,038	:	FROM ISSUE
Filed: December 19, 2002	:	UNDER 37 CFR 1.313(b)
For: RHEOLOGY MODIFIER CONCENTRATE	:	

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

The above-identified application is hereby withdrawn from issue.

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

Telephone inquiries should be directed to Yogendra Gupta at (571) 272-1316.

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

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

CROMPTON, SEAGER & TUFTE, LLC
1221 Nicollet Avenue
Suite 800
Minneapolis, MN 55403-2420

cc: Allowed Files—Pk3-910

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Paper No. 9

RICK D. NYDEGGER
WORKMAN NYDEGGER & SEELEY
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

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AUG 1 2 2003

OFFICE OF PETITIONS

In re Application of :
Bing Zhou et al :
Application No. 10/326,042 : DECISION GRANTING PETITION
Filed: February 19, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 15913.15.1 :

This is a decision on the petition, filed August 6, 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 March 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 rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of November 20, 2003 was mailed under separate cover on August 11, 2003.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center Art Unit 1754 for examination in due course via the Office of Initial Patent Examination to correct the filing date of this application from December 20, 2002 to February 19, 2003, the date of filing of drawings for this application.

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

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NEW BRUNSWICK NJ 08933-7003

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APR 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Falleiros et al :
Application No. 10/326,043 : ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. J&J-2021CON :

This is a decision on the petition under 37 CFR 1.137(b), filed December 2, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the nonfinal Office action mailed November 25, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 26, 2004.

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

This matter is being referred to Technology Center AU 3743.

Karen Creasy

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

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Paper No. 5

Kendrew H. Colton
FITCH, EVEN, TABIN & FLANNERY
Suite 401L
1801 K Street, N.W.
Washington DC 20006-1201

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MAY 15 2003

OFFICE OF PETITIONS

In re Application of
Kitano et al.
Application No. 10/326,061
Filed: December 23, 2002
Attorney Docket No. 7372/80157

DECISION ON PETITION

This is a decision on the "Response to Notice of Omitted Item(s) in a Nonprovisional Application," filed March 4, 2003. Therein, applicants petition to have the above-identified application accorded a filing date of December 23, 2002, with pages 28 and 29 of the specification considered part of the original application disclosure.

Application papers in the above-identified application were filed on December 23, 2002. However, on February 27, 2003, applicants were mailed a "Notice of Omitted Item(s) in a Nonprovisional Application," stating that the application papers had been accorded a filing date of December 23, 2002; however, pages 28 and 29 of the specification appeared to have been omitted from the application.

In response, petitioners timely filed the instant petition. Petitioners assert that by virtue of the incorporation by reference of the parent application, the instant divisional application included pages 28 and 29. In addition, petitioners argue that their return postcard receipt confirms receipt in the Office of the items listed thereon. Petitioners submit duplicate copies of pages 28 and 29 on petition.

Petitioner has not shown that pages 28 and 29 of the specification were present in the application on filing. A review of the application file reveals that these pages were not among the papers received in this application on December 23, 2002, as these pages are not present in the application file. The application file is the official record of the papers filed in an application. Papers not present in the application file are not considered present in the application absent convincing evidence to the contrary (e.g., a postcard receipt under MPEP § 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office.)

MPEP 503, provides that:

> 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.

However,

> If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO).

Moreover,

> The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

Petitioners have submitted a copy of their return postcard receipt. However, it is not sufficiently detailed to serve as convincing evidence that pages 28 and 29 of the specification were filed in the application, but misplaced by the Office. In regards to the specification, it generally identifies as being enclosed a "Continuing Patent Application Transmittal (in duplicate)(Divisional)." It neither generally nor specifically identifies the continuing application or the specific components of the continuing application.

In view thereof, the petition is **DISMISSED**.

Accordingly, the request for refund of the petition fee is denied. Petitioners have not shown that the petition was necessitated by any error on the part of the Office.

Nonetheless, petitioners may seek relief by way of preliminary amendment. MPEP 201.06(c) provides that:

> If a continuation or divisional application as originally filed is entitled to a filing date despite the omission of a portion of the prior application(s), applicant will be permitted to add the omitted material by way of an amendment provided a statement was included in the application as originally filed that incorporates by reference the prior application(s). If the application as originally filed includes a proper incorporation by reference of the prior application(s), an omitted specification page(s) and/or drawing figure(s) identified in a "Notice of Omitted Item(s)" may be added by amendment provided the omitted item(s) contains only subject matter in common with such prior application(s). In such case, applicant need not respond to the "Notice of Omitted Item(s)." **Applicant should submit the amendment adding the omitted material prior to**

the first Office action to avoid delays in the prosecution of the application. See MPEP § 601.01(d) and § 601.01(g). (**emphasis** added).

The application, with a filing date of December 23, 2002, is being returned to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries regarding this matter should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Beverly Flanagan
Supervisory Petitions Attorney
Office of Petitions

Nancy Johnson
Petitions Attorney
Office of Petitions

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OCT 6 2004

In re Application of	:	
KEMENY.	:	
Serial Number: 10/326,103	:	PETITION UNDER
Filed: December 23, 2002	:	M.P.E.P.708.02 IV
For: SWEET AND SAVORY FOOD BARS FOR MEAL-EQUIVALENT NUTRITION SEGMENTS	:	

This is in response to the petition filed August 3, 2004, requesting that the above-identified application be granted Special Status under Sections 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 is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Richard Crispino, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Emanuel S. Kemeny
1400 Joyce St #602
Arlington, VA 22202

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
1300 I STREET, N.W.
WASHINGTON DC 20005-3315

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JAN 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Shingo Kanamitsu et al :
Application No. 10/326,112 : ON PETITION
Filed: December 23, 2002 :
Attorney Docket No. 04329.2973 :

This is a decision on the petition, filed January 4, 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 November 22, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1756 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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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

Mail Date: 05/14/2010

Applicant	: Hamid Ould Brahim	: DECISION ON REQUEST FOR
Patent Number	: 7653050	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/326,122	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/23/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1418** 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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THOMAS E. ANDERSON
HUNTON & WILLIAMS
1900 K STREET NW
WASHINGTON, DC 20006-1109

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JAN 18 2006

OFFICE OF PETITIONS

In re Application of :
Aneta Wyrzykowska et al :
Application No. 10/326,123 : DECISION GRANTING PETITION
Filed: December 23, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 57983.00071 :

This is a decision on the petition, filed January 12, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 29, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3729 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).*

UNITED STATES PATENT AND TRADEMARK OFFICE

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314

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JUN 22 2007

OFFICE OF PETITIONS

In re Application of :
Gerhard Marxrieser :
Application No. 10/326,128 : ON PETITION
Filed: December 23, 2002 :
Attorney Docket No. MARX3001/BEU :

This is a decision in response to the petition under 37 CFR 1.137(b), filed January 19, 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.

This application became abandoned for failure to timely file an Appeal Brief within two months of the April 4, 2005 date of the Notice of Appeal. A Notice of Abandonment was mailed on December 27, 2005. In response, on January 19, 2007, the present petition was filed.

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

It is noted that petitioner suggest that "the required reply in the form of a Request for Continued Examination (RCE) and an amendment..." is attached; however, no RCE was found attached.

---

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

Since petitioner failed to submit a proper reply, the petition cannot be granted at this time.

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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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625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314

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DEC 19 2007

OFFICE OF PETITIONS

In re Application of
Gerhard Marxrieser
Application No. 10/326,128
Filed: December 23, 2002
Attorney Docket No. MARX3001/BEU

ON PETITION

This is a decision in response to the renewed petition, filed July 18, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

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.

Accordingly, the petition is **GRANTED**.

This application is being referred to Technology Center AU 3723 for appropriate action by the Examiner in the normal course of business on the reply received July 18, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Foley & Lardner
Suite 500
3000 K Street
Washington DC 20007

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JUL 12 2005

OFFICE OF PETITIONS

In re Application of
Okada et al.
Application No. 10/326,139
Patent No; 6,880,330
Filed: December 23, 2002
Attorney Docket No. 088473-0118

: DECISION GRANTING APPLICATION
: AND NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This decision is in response to Applicants' "APPLICATION FOR PTA UNDER 37 CFR 1.705(b)" filed on June 14, 2005 requesting that the Office remove the one hundred and twenty day reduction assessed after the mailing of the notice of allowance. This petition will be construed as a petition pursuant to 37 CFR 1.705(d) not 37 CFR 1.705(b). The application was filed within two months of the issue date of the patent and therefore is considered timely.

Applicants' application is **GRANTED.** The Office will *sua sponte* issue a certificate of correction reflecting this decision. The Office will also adjust the PTA calculation to reflect this decision.

Applicants argue that the applicants should not be assessed a reduction of 120 days because the "miscellaneous incoming letter" was in fact a supplemental response which was expressly requested the examiner and therefore should not be considered a failure to engage pursuant to 37 CFR 1.704(c)(8). Accordingly, applicants assert that the proper amount of PTA is sixty-five days based upon one hundred and thirteen days of Office delay (see 37 CFR 1.702(a)(1) and forty-eight days of applicant delay (see 37 CFR 1.704(b)).

Applicants are correct about the proper amount of PTA but not for the reasons asserted. The Office notes that the reduction was not assessed pursuant to 37 CFR 1.704(c)(8) but under 37 CFR 1.704(c)(10). Accordingly, the paper was filed after the notice of allowance and therefore considered a failure to engage. However, a view of the express paper filed on December 14, 2003 was a response to the interview summary which was required by the Office.[1] Accordingly, the Office does not find a response to interview summary under the present conditions to be considered a failure to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704(c)(10). The correct amount of PTA is sixty-five days (113-48=65).

[1]The mailed interview summary of December 1, 2004 required a substance of the interview to be filed by applicants.

After the mailing of this decision, the Office will forward this patented file to the certificate of correction branch for an issuance of a certificate fo correction.

The Office acknowledges receipt of the $200.00 fee. No additional fees are required by applicants.

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.

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

cc: Draft certificate of correction
Adjusted PAIR calculation

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05-10-09

TO SPE OF : ART UNIT 1795

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/326150 Patent No.: 7465479

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Angela Green
Certificates of Correction Branch
703-756-1541

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

Cynthia H. Kelly — SPE
SPE 1795 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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SEP 28 2006

OFFICE OF PETITIONS

In re Application of :
Rutledge :
Application No. 10/326,218 : DECISION ON PETITION
Filed: December 20, 2002 : TO WITHDRAW
Attorney Docket No. 021638-000110US : 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 June 21, 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 Jonathan M. Hollander on behalf of all attorneys of record who are associated with customer No. 20350.

All attorneys/agents associated with the Customer Number 20350 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.

There is an outstanding Office action mailed June 15, 2006 that requires a reply from the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: David Rutledge
18824 Lambert Lake Road
Sonora, CA 95370-7820

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Oct-05

RICHARD P. GILLY
WOLF, BLOCK, SCHORR AND SOLIS-COHEN LLP
1650 ARCH STREET
PHILADELPHIA PA 19103

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OCT 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Edward G. Yong :
Application No. 10/326,230 : ON PETITION
Filed: 20 December, 2002 :
Atty Dckt No. P1881US00 :

This is a decision on the petition filed under 37 CFR 1.137(b)[1] which, in light of petitioner's request for a refund of the petition fee, is first treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

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

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

---

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

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

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

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

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

The application became abandoned on 3 May, 2005, for failure to timely file a response to the non-final Office action mailed on 2 February, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

Petitioner asserts that a response was timely mailed to the USPTO on 4 April, 2005. In support, petitioner has provided a copy of a response to the Office action mailed on 2 February, 2005. The transmittal letter, which itemizes the filing of the response, contains a certificate of mailing stating that the correspondence was deposited with the USPS with sufficient postage in First Class Mail in an envelope addressed to Commissioner of Patents and Trademarks, Washington, DC 20231, and is signed by Laura Forrest and dated 4 April, 2005. Petitioner further states that the envelope containing the reply addressed to the USPTO was subsequently returned by the USPS to petitioner's counsel's office in a damaged condition.

Petitioner's argument has been considered, but is not persuasive. Effective 4 April, 2005, the USPTO no longer accepts correspondence addressed to the United States Patent and Trademark Office, Washington, D.C. 20231.[2] Thus, after 3 April, 2005, all correspondence addressed to the Washington, DC 20231 address will returned to the sender marked by the USPS as undeliverable.[3] Such mail returned to the sender by the USPS will not be considered proof of prior filing or mailing under 37 CFR 1.8(b) since the correspondence was not mailed in accordance with 37 CFR 1.1.[4]

All patent-related correspondence mailed on or after 4 April, 2005, must be addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. As such, the showing of record is that petitioner did not use the proper Office correspondence address on the reply to the Office action mailed on 2 February, 2005.

37 CFR 1.135 states, in pertinent part:

---

[2] 1292 O.G. 186

[3] Id.

[4] See Id.

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and 1.136, the application will become abandoned unless an Office action indicates otherwise
>
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) must include such complete and proper reply as the condition of the application may require.

In the instant case it is clear that petitioner did not file a timely reply in that the correct address for sending correspondence to the Office was not used. As the showing of record is that the correspondence was not received in the Office due to an error on the part of petitioner in providing an incorrect address for the USPTO, the holding of abandonment will not be withdrawn.

PETITION UNDER 37 CFR 1.137(b)

The petition is **granted**.

As the petition under 37 CFR 1.137(b) was required to continue prosecution of the application, the petition fee will not be refunded.

The application will be referred to Technology Center 2800 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ___

DATE : 11-8-05

TO SPE OF : ART UNIT 2188

SUBJECT : Request for Certificate of Correction on Patent No.: 6954829

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 th scope or meaning of the claims be changed.

Check claims

Thank You For Your Assistance

Certificates of Correction Branch

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

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

Comments:

SANJIV SHAH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

2185

SPE — Art Unit

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1925 NW AmberGlen Parkway, Ste. 230
Beaverton, OR 97006
(503) 439-8778 (Telephone)
(503) 439-6073 (Facsimile)

FACSIMILE TRANSMITTAL SHEET

Date: 9/12/07 **Time:** 2:45pm
Deliver to: Examiner Lane
Company Name: US PTO
Fax Number: 571-273-4208 **Telephone No.:** 571-272-4208
From: Michelle Evans for Paul A. Mendonsa
Number of pages including cover sheet: 4

Message:

Dear Examiner Lane,

Attached, per your request, is a copy of the Certificate of Correction filed 10/11/05 in the following application:

A/N: 10/326,232 (USPN 6,954,829); Attorney Docket No: 42P13986.

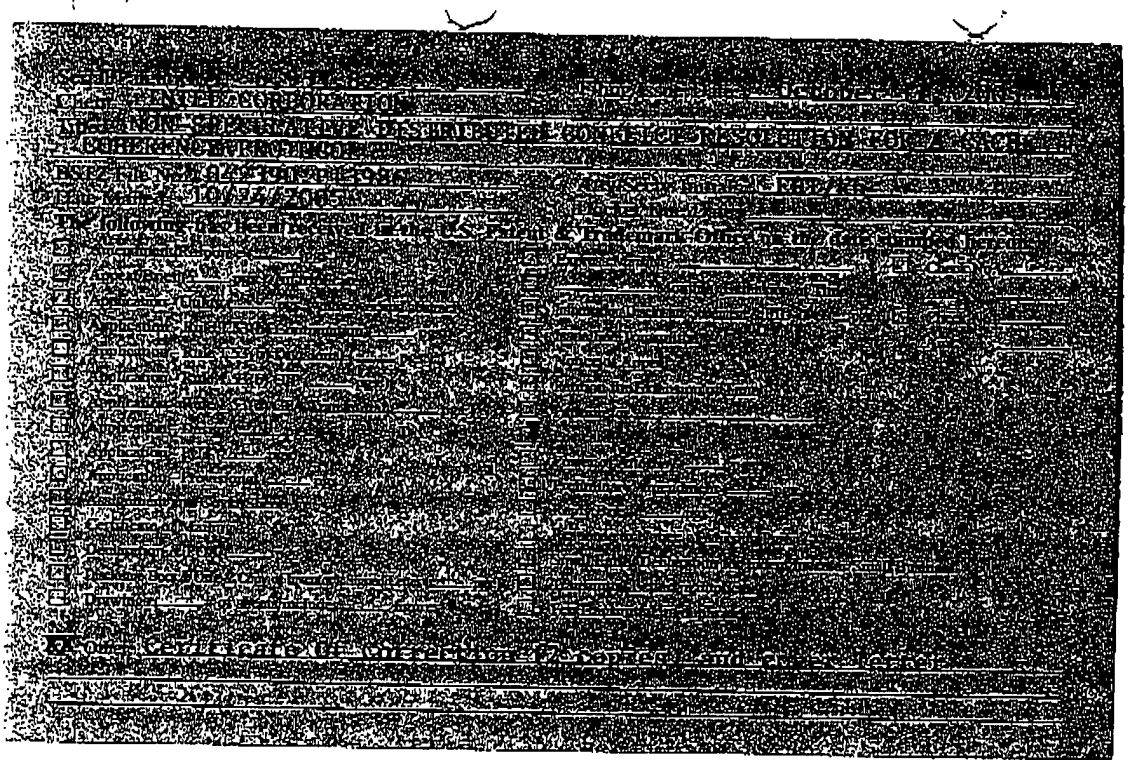
I apologize for the delay in getting this to you. Paul was on sabbatical and they placed your call into his voice mail instead of mine, so I just recently received your request. Please call me if you need anything further. My direct line is 503-372-1062.

Michelle L. Evans for Paul A. Mendonsa

CONFIDENTIALITY NOTE

The documents accompanying this facsimile transmission contain information from the law firm of Blakely Sokoloff Taylor & Zafman LLP that is confidential or privileged. The information is intended to be for the use of the individual or entity named on this transmission sheet. If you are not the intended recipient, be aware that any disclosure, copying, distribution, or use of the contents of this faxed information is prohibited. If you have received this facsimile in error, please notify us by telephone immediately so that we can arrange for the retrieval of the original documents at no cost to you.

IF YOU EXPERIENCE ANY DIFFICULTY IN RECEIVING THE ABOVE PAGES, PLEASE CALL (503) 439-8778.



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TELEPHONE (408) 720-8300
FACSIMILE (408) 720-8383
BSTZ_MAIL@BSTZ.COM
WWW.BSTZ.COM

INTELLECTUAL PROPERTY LAW
SILICON VALLEY
1279 OAKMEAD PARKWAY
SUNNYVALE, CALIFORNIA 94085-4040

OTHER OFFICES
LOS ANGELES, CA
ORANGE COUNTY/COSTA MESA, CA
SAN JOSE, CA
DENVER, CO
PORTLAND/BEAVERTON, OR
SEATTLE, WA

October 17, 2005

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Re: **CERTIFICATE OF CORRECTION**
U. S. Letters Patent No. 6,954,829
Issued: October 11, 2005
For: NON-SPECULATIVE DISTRIBUTED CONFLICT RESOLUTION FOR A CACHE COHERENCY PROTOCOL
Inventor: Beers et al.
Our File No. 42390.P13986

Dear Sir:

Enclosed is the Certificate of Correction (two copies) for the above-referenced patent.

This request for correction is made under rule 322 of the Rules of Practice and 35 U.S.C. Section 254.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Edwin H. Taylor
Reg. No. 25,129

EHT/jsq
Enclosures

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,954,829

DATED : October 11, 2005

INVENTOR(S) : Beers et al.

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

In column 18, at line 41 after "each", insert --of--.

MAILING ADDRESS OF SENDER
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
12400 Wilshire Blvd. 7th floor
Los Angeles, CA 90025-1026

PATENT NO. 6,954,829

Certificate of Correction (PTO Form 1050)-Amended

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

Rutan & Tucker, LLP
14th Floor
611 Anton Blvd.
Costa Mesa, CA 92626

COPY MAILED

APR 0 1 2003

OFFICE OF PETITIONS

In re Application of :
Iwamoto :
Application No. 10/326,233 : DECISION DISMISSING
Filed: December 19, 2002 : PETITION
Attorney Docket No. 30-5018 DIV (4962) :

This is a decision on the petition filed March 12, 2003, requesting entry of Figures 15 to 19 submitted on March 12, 2003.

The petition is **dismissed**.

On December 19, 2002, the application was filed.

On January 30, 2003, the Office of Initial Patent Examination mailed a Notice stating that Figures 15 to 19 were missing.

Petitioner alleges that the missing Figures were incorporated by reference and petitions for entry of the Figures. The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted. 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 inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

If petitioner desires for the examiner to consider the missing pages which were not submitted as part of the original disclosure, then petitioner may submit 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 amendment is not new matter if the substance was a part of the disclosure of the prior application.

The pages submitted with the petition will not be entered. Should petitioner wish for the pages to be entered, an amendment must be filed. The original application papers will include only those application papers present on the date of deposit.

This decision is **not** a determination that the missing Figures were properly incorporated by reference. The examiner will resolve such an issue if an amendment is filed to add the Figures. Petitioner should note that merely claiming priority based upon an application does not

incorporate that application by reference.[1]

Since the present petition was not necessitated by any error on the part of the Office, the $130.00 petition fee will not be refunded.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 19, 2002, using only the application papers filed on December 19, 2002.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

[1] See In re de Seversky, 474 F.2d 671, 674, 177 U.S.P.Q. (BNA) 144 (C.C.P.A. 1971) ("To be sure, the statement that an application is a continuation-in-part, or a continuation, or a division, . . . is in a broad sense a 'reference' to the earlier application, but a mere reference to another application, or patent, or publication is not an incorporation of anything therein into the application containing such reference for the purposes of the disclosure required by 35 USC § 112."); Dorchy v. Kansas, 272 U.S. 306, 311, 71 L. Ed. 248, 268, 47 S. Ct. 86, 87 (1926) ("Mere reference to [another case] by the court as a controlling decision did not incorporate its record into that of the case at bar.") (citing Pacific R.R. Co. v. Missouri Pacific Ry. Co., 111 U.S. 505, 517-518, 28 L. Ed. 498, 4 S. CT. 583 (1884)); Martin v. Martin, 687 So. 2d 903, 906-907 (Fla. 4th Dist. Ct. App. 1997) (A mere reference to another document is insufficient to incorporate by reference.) (citations omitted).

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

KACVINSKY LLC
C/O CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: John A. Ronciak	: DECISION ON REQUEST FOR
Patent Number	: 7643502	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/326,238	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/19/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2120** 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. 7

BRUCE E. BURDICK
3656 WESTERN AVENUE
ALTON, IL 62002

COPY MAILED

MAY 0 4 2004

OFFICE OF PETITIONS

In re Application of :
Henry G. Leischner et al :
Application No. 10/326,240 : ON PETITION
Filed: December 19, 2002 :
Attorney Docket No. Honeypoint06 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 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 non-final Office action mailed June 9, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 10, 2003.

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 $475.00 extension of time submitted with the petition on April 22, 2004 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to: Mail Stop 16, Director of the United States 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 Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center AU 3612.

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

AVT AUDIO VISUAL TELECOMMUNICATIONS CORPORATION
1231 SUTHERLAND DRIVE
COWICHAN BAY
BRITISH COLUMBIA
VOR 1N2 CANADA

COPY MAILED

FEB 22 2006

OFFICE OF PETITIONS

In re Application of	:	
Chengdong Zhang	:	
Application No. 10/326,266	:	ON PETITION
Filed: June 6, 2003	:	
Attorney Docket No. A410 0005 GNM/TAR/bds	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 5, 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 in a timely manner to the non-final Office action mailed April 19, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 20, 2005.

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 required pursuant to 37 CFR 1.137(d). This petition lacks items (1), (2) and (3) above.

As to item (1), a reply to the office action mailed April 19, 2005, has not been submitted. A proper reply to the office action must be submitted with the petition to revive for the petition to be granted.

As to item (2), applicant must pay a petition fee of $750.00 in order for the petition to be granted.

As to item (3), effective December 1, 1997, 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" be submitted. No such statement was filed.

In addition, the petition is not signed by (1) a registered attorney or 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); 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.

The petition is signed by a "Garry D. Robb." However, the petition nevertheless does not have the requisite "37 CFR 3.73(b) statement" establishing the ownership in this application to enable Garry D. Robb to file this petition.

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

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

By hand: Customer Service Window
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 Wan Laymon at (571) 272-3220.

Wan Laymon
Petitions Examiner
Office of Petitions

Enclosure: PTO/SB/64

PTO/SB/64 (10-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1.Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____ _____
Signature Date

_____ _____
Typed or printed name Registration Number, if applicable

_____ _____
Address Telephone Number

_____
Address

Enclosures: ☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

_____ _____
Date Signature

_____
Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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OYEN, WIGGS, GREEN & MUTALA LLP
480 - THE STATION
601 WEST CORDOVA STREET
VANCOUVER BC V6B 1G1 CA CANADA

COPY MAILED
JUL 27 2006
OFFICE OF PETITIONS

In re Application of :
Chengdong Zhang :
Application No. 10/326,266 :
Filed: June 6, 2003 :
Title of Invention: ADAPTIVE :
ERROR RESILIENCE FOR SIGNAL :
TRANSMISSION OVER A NETWORK :

This is a decision in response to the Renewed Petition under 37 CFR 1.137(b), filed April 20, 2006 via facsimile and refilled April 28, 2006, 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 "Renewed Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed April 19, 2005. The Office action set a three (3) month period for reply. No extensions of time having been obtained under 37 CFR 1.136(a), this application became abandoned on July 20, 2005. A Notice of Abandonment was mailed November 3, 2005.

Applicant filed a petition to revive the application on December 5, 2005, which was dismissed in a Decision mailed February 22, 2006. The Decision dismissing the petition informed Applicant that a reply to the non-final office action had not been filed. The Decision also informed Applicant that the petition was executed by Garry Robb, who was not a proper party in interest.

Applicant files the instant renewed petition, again executed by Garry Robb. Applicant has again not filed a response to the Office action, nor has Applicant filed the proper correspondence to enable Mr. Robb to take action in this application.

Applicant is advised that, until the proper correspondence is filed by a proper party in interest, no further consideration of this or any correspondence will be undertaken.

Applicant is further advised to contact the Office of Independent Inventors, at 703-306-5568, and the Patent Assistance Center, at 1-800-786-9199, for assistance in prosecuting his patent application.

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

Cc: GARRY ROBB
1231 SUTHERLAND DRIVE
COWICHAN BAY
BRITISH COLUMBIA
VOR 1N2 CANADA

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

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FEB 09 2007

OFFICE OF PETITIONS

In re Application of :
Chengdong Zhang :
Application No.: 10/326266 : ON PETITION
Filing or 371(c) Date: 06/06/2003 :
Attorney Docket Number: :
17988US01 :

This is a decision on the Renewed Petition Under 37 C.F.R. § 1.137, filed October 23, 2006. The petition is properly treated under 37 CFR 1.137(b). The delay in treating this petition is regretted.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely reply to the non-final office action, mailed April 19, 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 July 20, 2005. A Notice of Abandonment was mailed November 3, 2005.

Applicant filed petitions on December 5, 2005 and April 20, 2006; however, the petitions were not executed by a proper party in interest. Accordingly, the petitions were dismissed in Decisions mailed February 22, 2005 and July 27, 2006 respectively. Applicant was advised that, until the proper correspondence was filed by a proper party in interest, no further consideration of correspondence would be undertaken.

The instant petition

Applicant files the instant petition, power of attorney executed by a proper party in interest, and Amendment in response to the Office action. Accordingly, the petition is granted.

The power of attorney and correspondence address have been entered and made of record.

This application is being referred to Technology Center Art Unit 2133 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

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
10/326,266	06/06/2003	Chengdong Zhang	A410 0005 GNM/TAR/bds

CONFIRMATION NO. 1274

OC000000022380892

23446
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Date Mailed: 02/07/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/23/2006.

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

DEREK L WOODS
OP (571) 272-3232

ATTORNEY/APPLICANT COPY

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
10/326,266	06/06/2003	Chengdong Zhang	A410 0005 GNM/TAR/bds

CONFIRMATION NO. 1274

OC000000022380747

720
OYEN, WIGGS, GREEN & MUTALA LLP
480 - THE STATION
601 WEST CORDOVA STREET
VANCOUVER, BC V6B 1G1
CANADA

Date Mailed: 02/07/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/23/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

DEREK L WOODS
OP (571) 272-3232

FORMER ATTORNEY/AGENT COPY

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
10/326,266	06/06/2003	Chengdong Zhang	A410 0005 GNM/TAR/bds

CONFIRMATION NO. 1274

OC000000022380747

720
OYEN, WIGGS, GREEN & MUTALA LLP
480 - THE STATION
601 WEST CORDOVA STREET
VANCOUVER, BC V6B 1G1
CANADA

Date Mailed: 02/07/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/23/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

DEREK L WOODS
OP (571) 272-3232

NEW 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
www.uspto.gov

JJGJr: 03-04

Paper No: __

McDERMOTT,
WILL & EMERY
600 13TH Street, N.W.
Washington DC 20005-3096

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APR 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Harutyunyan, et al. :
Application No. 10/326,276 : DECISION ON PETITION
Filed: 23 December, 2002 :
Attorney Docket No.: 59516-049 :
:

This is a decision on the petition filed on 3 March, 2004, seeking to have accorded to the instant application a filing date of 23 December, 2002--notably, however, Petitioner alleges that the drawings found to be missing from the application "are not necessary for the understanding of the subject matter to be patented."

For the reasons set forth below, the petition is **GRANTED in part** and the petition fee is credited to Deposit Account 50-0417.

The application was deposited on 23 December, 2002.

On 12 May, 2003, the Office mailed a "Notice of Incomplete Nonprovisional Application" indicating that the application was filed without, *inter alia*, drawings as required under 35 U.S.C. §113 (first sentence) and that no filing date has been granted.

On 14 July, 2003, prior Counsel replied submitting a copy of the drawings (Figs. 1a, 1b, 2a, 2b and 3 - 5) (and argument), and on 24 September, 2003, the Office mailed a filing receipt according a filing date of 14 July, 2003.

Petitioner responds with the instant petition stating that the drawings found to be missing from

the application "are not necessary for the understanding of the invention" (Petition at pages 2 - 3).

Thus, Petitioner contends, drawings are not necessary for the understanding of the subject matter to be patented.

It is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for the understanding of the invention under 35 U.S.C. §113 (first sentence). (See: MPEP §601.01[1])

This application contains method claims, e.g., claims 1 - 14, 16 - 20 and 22. 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).[2]

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[1] The commentary at MPEP §601.01 provides in pertinent part:

* * *

601.01(f) Applications Filed Without Drawings

35 U.S.C. 111(a)(2)(B) and 35 U.S.C. 111(b)(1)(B) each provide, in part, that an "application shall include . . . a drawing as prescribed by section 113 of this title" and 35 U.S.C. 111(a)(4) and 35 U.S.C. 111(b)(4) each provide, in part, that the "filing date . . . shall be the date on which . . . any required drawing are received in the Patent and Trademark Office." 35 U.S.C. 113 (first sentence) in turn provides that an "applicant shall furnish a drawing where necessary for the understanding of the subject matter sought to be patented.

Applications filed without drawings are initially inspected to determine whether a drawing is referred to in the specification, and if not, whether a drawing is necessary for the understanding of the invention. 35 U.S.C. 113 (first sentence).

It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). The same practice has been followed in composition applications.

* * *

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, not describing drawing figures in the specification, and filed without drawings will simply be processed for examination, so long as the application contains something that can be construed as a written description. 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. In a situation in which the appropriate Technology Center (TC) determines that drawings are necessary under 35 U.S.C. 113 (first sentence) the filing date issue will be reconsidered by the USPTO.

* * *

[2] The commentary at MPEP §601.01 provides in pertinent part:

* * *

601.01(g) Applications Filed Without All Figures of Drawings

The Office of Initial Patent Examination (OIPE) reviews application papers to determine whether all of the figures of the drawings that are mentioned in the specification are present in the application. If the application is filed without all of the drawing figure(s) referred to in the specification, and the application contains something that can be construed as a written description, at least one drawing, if necessary under 35 U.S.C. 113 (first sentence), and, in a nonprovisional application, at least one claim, OIPE will mail a "Notice of Omitted Item(s)" indicating that the application papers so deposited have been accorded a filing date, but are lacking some of the figures of drawings described in the specification. The mailing of a "Notice of Omitted Item(s)" will permit the applicant to either: (1) promptly establish prior receipt in the USPTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP § 503)); or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the drawing(s) was in fact deposited in the USPTO with the application papers must, within 2 months from the date of the "Notice of Omitted Item(s)," file a petition under 37 C.F.R. 1.53(e) with the petition fee set forth in 37 C.F.R. 1.17(h), along with evidence of such deposit (37 C.F.R. 1.181(f)). The petition fee will be refunded if it is determined that the drawing(s) was in fact received by the USPTO with the application papers deposited on filing.

* * *

(Petitioner also has alleged that the instant application incorporates by reference the entire Provisional Application No. 60/344,215, filed 28 December, 2001, however, Petitioner does not appear to have submitted a true copy of that application with the instant petition. Petitioner may wish to file a preliminary amendment along with a true copy of the referenced provisional application for consideration by the Examiner.)

It appears that a "Notice of Omitted Items" should have been mailed instead of the "Notice of Incomplete Nonprovisional Application."

Therefore, the 12 May, 2003, "Notice of Incomplete Nonprovisional Application" hereby is **vacated**.

The application is accorded a filing date of 23 December, 2002.

The petition is granted in part, to the extent that the application will be accorded the filing date of 23 December, 2002, without the drawings containing Figures 1a,1b, 2a, 2b and 3 - 5 as part of the original disclosure of the application.

The application file is being returned to the Office of Initial Patent Examination for further processing with a corrected filing date of 23 December, 2002, indicating in the Office records that "0" sheets of drawings were present on filing, and the mailing of a corrected filing receipt.

Telephone inquiries concerning this decision may be directed to the undersigned at (703)305-9199.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

FLESHNER & KIM, LLP
P.O. Box 221200
Chantilly VA 20153-1200

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JUN 18 2003

OFFICE OF PETITIONS

In re Application of
Petru Adrian Vonsovici
Application No. 10/326,283
Filed: December 23, 2002
Attorney Docket No.
SGU-0065
Title: INTEGRATED OPTICAL
ARRANGEMENT

DECISION ON PETITION
UNDER 37 C.F.R. §1.47(b)

This is in response to the petition under 37 CFR §1.47(b)[1], filed on April 11, 2003.

The above-identified application was filed on December 23, 2002, without an executed oath or declaration and identifying Petru Adrian Vonsovici as the sole inventor. On February 12, 2003, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted", requiring an executed oath or declaration in compliance with 37 CFR §1.63, the surcharge for the late filing of the oath or declaration, and the filing fee. This Notice set a two-month period for reply.

In reply, applicant filed this petition, along with the associated fee, the fee associated with the late filing of an oath or declaration, and the filing fee. Petitioner has further

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1 1 A grantable petition under 37 CFR §1.47(b) requires:

(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that diligent efforts have been made to locate the non-signing inventor
(5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(6) proof of irreparable damage, and;
(7) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

included a statement of the last-known address of the non-signing inventor, proof that a complete copy of the application was sent to the non-signing inventor, proof that he has refused to execute the declaration, and proof of irreparable damage.

Rule 47 applicant has met requirements (1) – (4) and (6) above.

Regarding the fifth requirement above, it is noted that petitioner has included both a copy of the non-signing inventor's employment agreement, as well as a statement from a British patent attorney which states that the invention appears to have been made while employed by the purported assignee, and appears to be in the normal course of his duties. It is noted that no conclusions are drawn as to whether the purported assignee has a proprietary interest in the instant application. On renewed petition, petitioner will need to submit 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 the authority, award title to the invention to the Rule 47(b) applicant.

Regarding the seventh requirement above, the rule 47(b) applicant has attempted to make the required oath or declaration. The declaration does not list the name or pertinent address of the inventor. Rather, it lists "Haydn Jones', and gives an address for the purported assignee. As this would suggest that Mr. Jones is the sole inventor, it is assumed that the petitioner attempted to have the purported assignee execute the declaration on behalf of the non-signing inventor, but did so in an incorrect manner. The declaration must state the relationship of the person, making the oath or declaration, to the inventor, and upon information and belief, the facts which the inventor is required to state. Where a corporation is the 47(b) applicant, an officer thereof should normally sign the necessary oath or declaration. Regardless, the title or position of the person signing must be stated. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP 324[2]. Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the non-signing inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b). Submission of an oath or declaration in compliance with 37 CFR 1.63 and 1.64 is required. Hence, on renewed petition, petitioner must submit a new declaration, which lists the name and pertinent information of the non-signing inventor, as well as the name and relevant information of the corporate representative who is signing on his behalf.

For these reasons, the petition under 37 C.F.R. §1.47(b) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(b)," and should only address the deficiencies noted above, except that the reply may include an oath or declaration

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2 409.03(b).

executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The reply to this letter may be submitted by mail[3,4], hand-delivery[5], or facsimile[6].

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.

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

3 Commissioner for Patents, Box DAC, Washington, DC 20231.
4 Note: as of May 1, 2003, the mailing address for addressing correspondence to the Office changed to: United States Patent and Trademark Office, PO Box 1450, Alexandria, VA, 22313-1450.
5 Office of Petitions, 2201 South Clark Place, Crystal Plaza 4, Suite 3C23, Arlington, VA 22202.
6 (703) 308-6916, Attn: Office of Petitions.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 9

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AUG 25 2003

OFFICE OF PETITIONS

FLESHNER & KIM, LLP
P.O. Box 221200
Chantilly VA 20153-1200

In re Application of
Petru Adrian Vonsovici
Application No. 10/326,283
Filed: December 23, 2002
Attorney Docket No.
SGU-0065
Title: INTEGRATED OPTICAL ARRANGEMENT

DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.47(b)

This is in response to the renewed petition under 37 CFR §1.47(b)[1], filed on August 14, 2003.

The above-identified application was filed on December 23, 2002, without an executed oath or declaration and identifying Petru Adrian Vonsovici as the sole inventor. On February 12, 2003, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted", requiring an executed oath or declaration in compliance with 37 CFR §1.63, the surcharge for the late filing of the oath or declaration, and the filing fee. This Notice set a two-month period for reply.

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1 1 A grantable petition under 37 CFR §1.47(b) requires:
(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that diligent efforts have been made to locate the non-signing inventor
(5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(6) proof of irreparable damage, and;
(7) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

The original petition was filed on April 11, 2003. On June 18, 2003, a decision was mailed which dismissed this petition for failing to meet requirements (5) and (7) above.

With the renewed petition, requirement (5) above has been satisfied.

Regarding requirement (7) above, the decision on the original petition set forth:

Regarding the seventh requirement above, the rule 47(b) applicant has attempted to make the required oath or declaration. The declaration does not list the name or pertinent address of the inventor. Rather, it lists "Haydn Jones', and gives an address for the purported assignee. As this would suggest that Mr. Jones is the sole inventor, it is assumed that the petitioner attempted to have the purported assignee execute the declaration on behalf of the non-signing inventor, but did so in an incorrect manner. *The declaration must state the relationship of the person, making the oath or declaration, to the inventor*, and upon information and belief, the facts which the inventor is required to state. *Where a corporation is the 47(b) applicant, an officer thereof should normally sign the necessary oath or declaration. Regardless, the title or position of the person signing must be stated. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee*, see MPEP 324[2]. Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the non-signing inventor. Also, *the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b)*. Submission of an oath or declaration in compliance with 37 CFR 1.63 and 1.64 is required. Hence, on renewed petition, petitioner must submit a new declaration, which lists the name and pertinent information of the non-signing inventor, as well as *the name and relevant information of the corporate representative who is signing on his behalf.*

(Emphasis added)

With the renewed petition, petitioner has included a new declaration, where it is clear that the person who executed the declaration, one Haydn Jones, is not the inventor. However, the declaration is silent as to the relationship of Mr. Jones to the inventor. Is he an officer of the corporate assignee? Perhaps he is an attorney who is employed by the corporate assignee?

On second renewed petition, petitioner must have Mr. Jones properly execute the declaration on behalf of the non-signing inventor.

For this reasons, the petition under 37 C.F.R. §1.47(b) 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 "Second Renewed Petition Under 37 C.F.R. §1.47(b)," and should only address the deficiencies noted above, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The reply to this letter may be submitted by mail[3,4], hand-delivery[5], or facsimile[6].

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2 409.03(b).

3 Commissioner for Patents, Box DAC, Washington, DC 20231.

4 Note: as of May 1, 2003, the mailing address for addressing correspondence to the Office changed to: United States Patent and Trademark Office, PO Box 1450, Alexandria, VA, 22313-1450.

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.

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

5 Office of Petitions, 2201 South Clark Place, Crystal Plaza 4, Suite 3C23, Arlington, VA 22202.
6 (703) 308-6916, Attn: Office of Petitions.

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SEP 16 2003

OFFICE OF PETITIONS

Adrian Petru Vonsovivi
59 Runnymede
Merton Abbey, London SW19 2PG
UNITED KINGDOM

In re Application of
Petru Adrian Vonsovici
Application No. 10/326,283
Filed: December 23, 2002
Attorney Docket No. SGU-0065
Title: INTEGRATED OPTICAL ARRANGEMENT

LETTER

Dear Mr. Vonsovivi:

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

As the named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or 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, agent of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

FLESHNER & KIM, LLP
P.O. Box 221200
Chantilly VA 20153-1200

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No. 10

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SEP 16 2003

OFFICE OF PETITIONS

FLESHNER & KIM, LLP
P.O. Box 221200
Chantilly VA 20153-1200

In re Application of
Petru Adrian Vonsovici
Application No. 10/326,283
Filed: December 23, 2002
Attorney Docket No. SGU-0065
Title: INTEGRATED OPTICAL ARRANGEMENT

DECISION VACATING PREVIOUS DECISION AND GRANTING PETITION
37 C.F.R. §1.47(b)

This is in response to the renewed petition under 37 CFR §1.47(b)[1], filed August 14, 2003[2].

The previous decision is hereby **VACATED**, as the declaration submitted with the renewed petition has been determined to be acceptable. As such, the petition is **GRANTED**.

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

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition, not the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

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1 1 A grantable petition under 37 CFR §1.47(b) requires:
(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that diligent efforts have been made to locate the non-signing inventor
(5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(6) proof of irreparable damage, and;
(7) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

2 The original petition, filed on April 11, 2003, was dismissed in a decision mailed on June 18, 2003, for failing to satisfy requirements (5) and (6) - (7) above.

After this decision is mailed, the application will be forwarded to Technology Center 2600 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011.

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

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)
6854982	2005-02-15	10326307	2002-12-23	TUC920000060US2

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	/Mark J. Spolyar/	Date (YYYY-MM-DD)	2010-03-09
Name	Mark J. Spolyar	Registration Number	42164

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
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In re Patent No. 6854982
Issue Date: February 15,2005
Application No. 10326307
Filed: December 23,2002
Attorney Docket No. TUC920000060US2

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

This is a decision on the electronic petition, filed March 9,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 9,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALAN D. KAMRATH
NIKOLAI & MERSEREAU, P.A.
SUITE 820, INTERNATIONAL CENTRE
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402

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JAN 12 2005

OFFICE OF PETITIONS

In re Application of : DECISION ON PETITION
Chin-Yuan Chen :
Application No. 10/326,314 :
Filed: December 23, 2002 :
Atty Docket No.: :
1496-813 :

This is a decision on the Petition to Revive the Application based upon unintentional abandonment, filed October 18, 2004.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed April 29, 2004. The Notice set a non-extendable statutory period for reply of three (3) months. Accordingly, the application became abandoned on July 30, 2004. A Notice of Abandonment was mailed September 8, 2004.

With the instant petition Applicant has submitted the issue fee.

The Power of Attorney and Correspondence Address Change have been entered and made of record.

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

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

Derek L. Woods
Attorney/Advisor
Office of Petitions

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OFFICE OF PETITIONS

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Patent No. 6,872,443	:	
Issue Date: March 29, 2005	:	
Application No. 10/326,319	:	DECISION ON PETITION
Filed: December 20, 2002	:	
Attorney Docket No. 9663.40USD2	:	

This is a decision on the petition under 37 CFR 1.378(c), filed May 08, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on March 29, 2009 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

The patent file is being forwarded to Files Repository.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/326,320	12/20/2002	Hans Johansson-Vestin	ANO6230US	3159

7590 01/17/2007

Michelle J. Burke
Akzo Nobel, Inc.
IP Department
7 Livingstone Avenue
Dobbs Ferry, NY 10522

EXAMINER	
RONESI, VICKEY M	
ART UNIT	**PAPER NUMBER**
1714	

MAIL DATE	DELIVERY MODE
01/17/2007	PAPER

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Mailed:

In re Application of:
H. Johansson-Vestin et al.
Serial No.: 10/326,320
Filed: December 20, 2002
For: Aqueous Silica-Containing Composition

DECISION ON PETITION

This is a follow-up to the preceding decision mailed January 8, 2007 on the Petition filed October 10, 2006 to correct inventorship under 37 CFR §1.48(a).

Pursuant to a phone call on January 5, 2006 from Attorney Robert. C. Morriss, the Petition was re-reviewed.

Although the written consent of the assignee was not set forth in a separate sheet under e..g. a heading such as "Written Consent of the Assignee under 37 CFR 3.73(b)" to better facilitate a review, it is noted that a written consent of the assignee, Akzo Nobel N.V., appears at the end of page 2 of applicant's letter of Petition. It is set forth under "Consent to Addition of Inventor" and is signed by J. Nyander and C. Jönsson who are stated to be authorized representatives of the assignee. This is deemed to be sufficient to satisfy one of the requirements of a Petition under 37 CFR 1.48(a).

Furthermore, although applicant did state that "the total fee believed due is $0.00" on page 1 of the Transmittal Letter filed October 10, 2006), an authorization to charge a processing fee to Deposit Account 01-1350 is given in the Transmittal Letter of October 10, 2006. This too is deemed to be sufficient to satisfy one of the requirements of a Petition under 37 CFR 1.48(a).

In summary, the applicants have met the requirements of (i) a petition including a statement from Fredrik Solhage, who is being added as an inventor, that the error in inventorship occured without deceptive intention on his part; (ii) oaths or declarations by the inventors; (iii) the processing fee set forth in 37 CFR §1.17(i); and (iv) the written consent of the assignee,Akzo Nobel N.V., under 37 CFR 3.73(b).

The petition is therefore GRANTED.

Vasu Jagannathan
SPE, Art Unit 1714

Michelle J. Burke
Akzo Nobel, Inc.
IP Department
7 Livingstone Avenue
Dobbs Ferry NY 10522

UNITED STATES PATENT AND TRADEMARK OFFICE

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AT&T CORPORATION
ROOM 2A-207 ONE AT&T WAY
BEDMINSTER, NEW JERSEY 07921

Paper No. 10

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FEB 27 2006

OFFICE OF PETITIONS

In re Application of :
Bauer THOMAS *et al.* :
Application No. 10/326,323 : ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. **2002-0229** :

This is a decision on the petition under 37 CFR 1.137(b), filed on January 23, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed on March 11, 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, by operation of law, on June 12, 2004. A Notice of Abandonment was mailed on November 2, 2004.

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 March 11, 2004, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Anatoly Vortman at (571) 272-6051, or in his absence to the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 2645 for appropriate action on the concurrently filed amendment.

David Bucci
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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TUCKER ELLIS & WEST, LLP
1150 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND, OH 44115-1414

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MAR 25 2009

OFFICE OF PETITIONS

In re Application of :
Linghsiao Wang, et. al. :
Application No. 10/326,352 : DECISION ON PETITION
Filed: December 20, 2002 : TO WITHDRAW
Attorney Docket No. S-297 : 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 27, 2005.

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

A review of the file record indicates that the power of attorney TUCKER ELLIS & WEST, LLC has been revoked by the assignee of the patent application on June 13, 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: CONEXANT SYSTEMS , INC.
LEGAL DEPARTMENT - NJ PATENTS
100 SCHULZ DRIVE
RED BANK NJ 07701

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052005

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

MAY 1 1 2005

In re Application of:
Pekka Ojaha
Serial No.: 10/326,364
Filed: December 20, 2002
For: REVERSE-BIASED P/N WELLS ISOLATING A CMOS INDUCTOR FROM THE SUBSTRATE

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed May 24, 2004, to withdraw the holding of abandonment of the above-identified application.

The petition is GRANTED.

A non-final Office action was mailed August 15, 2003, setting a three-month shortened statutory period for filing a reply. In the apparent absence of a response, a Notice of Abandonment was mailed on March 25, 2004.

Petitioner asserts that a reply was timely filed. In support of the assertion that a reply was timely filed, petitioner submitted the following papers as evidence of timely submission: 1) a copy of a response, 2) a Certificate of Transmission under 37 C.F.R. § 1.8(a) dated November 13, 2003, and 3) a copy of a report from petitioner's sending unit indicating that the transmission of 6 (six) pages to a USPTO facsimile machine was successful.

The file record includes the originally submitted reply of November 13, 2003.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Inconvenience to the applicant is regretted.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

An Office action will be issued in due course.

Sharon Gibson, Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202

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AUG 16 2006

OFFICE OF PETITIONS

In re Application of :
Griffith et al. :
Application No. 10/326,386 : DECISION
Filed: September 2, 2004 : ON PETITION
Attorney Docket Number: 30346.5 :

This is a decision in response to the "Request to Withdraw Holding of Abandonment", filed June 20, 2006. The petition is properly treated under 37 CFR 1.181.

The petition is **granted.**

Background

The above-identified application became abandoned for failure to timely and properly respond to the final Office action, mailed December 30, 2005. The Office action set a three (3) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No complete and proper response having been received, the application became abandoned March 31, 2006. A Notice of Abandonment was mailed May 22, 2006.

The instant petition

Applicant files the instant petition wherein Applicant avers that the application was abandoned prematurely by this Office. Applicant asserts that the Office action from which the reply period was calculated was mailed December 30, 2006. As such, and including available extensions oft time, Applicant has until June 30, 2006 to reply to the Office action. Applicant files a Request for Continued Examination and submission with the instant petition.

Analysis and conclusion

A review of Office records reveals that the Office action mailed December 30, 2005 was a final Office action, and provided for extensions of time under 37 CFR 1.136(a). Applicant timely filed a reply to the final Office action, in the form of a RCE and fee, an amendment, and an extension of time request and fee, prior to the maximum extendable period for the reply.

In view of the above, the petition is granted. The Notice of Abandonment and the holding of abandonment are hereby withdrawn.

The Power of Attorney has been entered and made of record.

The application is being forwarded to Technology Center Art Unit 2129 for processing of the reply, including the RCE and amendment, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 24, 2006

TO SPE OF : ART UNIT 2829

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/326392 Patent No.: 6,822,436 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: _____

_____

_____

_____

_____

_____ 2829

SPE **Art Unit**

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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OFFICE OF PETITIONS

In re Application of :
Todd A. Anderson :
Application No. 10/326,395 : DECISION ON PETITION
Filed: December 19, 2002 :
Attorney Docket No. 42P15479 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 4, 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 March 8, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed December 8, 2006. Accordingly, the date of abandonment of this application is March 9, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of &1,400 and the publication fee of $300, (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. The Notice of Abandonment was mailed April 13, 2007.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

cc: **MICHAEL R. BARRE**
INTEL CORPORATION
1701 INTERVAIL DR.
MS : AN1-PTL1
AUSTIN, TX 78746

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Frederick E. Cooperrider
McGINN INTELLECTUAL PROPERTY
LAW GROUP, PLLC
8321 Old Courthouse Rd.
Suite 200
Vienna, VA 22182-3817

MAILED

FEB 07 2007

Technology Center 2100

In re Application of:
Rosario UCEDA-SOSA
Application No. 10/326,400
Filed: December 23, 2002
For: METHOD AND STRUCTURE FOR DOMAIN-INDEPENDENT MODULAR REASONING AND RELATION REPRESENTATION FOR ENTITY-RELATION BASED INFORMATION STRUCTURES

DECISION ON PETITION

This is a decision on the petitions, filed on 17 August 2006 and 09 November 2006, under 37 CFR § 1.181 requesting to reinstate Appeal. A new Appeal Brief was filed on 09 November 2006.

The petition is **GRANTED**.

On 30 March 2006 and 30 May 2006 respectively, applicant filed a Notice of Appeal and an Appeal Brief in response to the Advisory Action mailed on 22 March 2006; and on 09 August 2006, examiner Starks issued an Office Action rejecting all claims 1-21 under 35 U.S.C. §§ 101 and 112, first paragraph. It is unclear whether the Office Action mailed on 09 August 2006 is non-final rejection (PTOL-326 indicated the action is non-final) or a Final rejection (page 19 of the Office action mailed 09 August 2006 indicated the action is made final).

MPEP § 1204(I) states in part that:

> Under 37 CFR 41.31(a)(1), an applicant for a patent dissatisfied with the primary examiner's decision in the second rejection of his or her claims may appeal to the Board for review of the examiner's rejection by filing a notice of appeal and the required fee set forth in 37 CFR 41.20(b)(1) within the time period provided under 37 CFR 1.134 and 1.136. A notice of appeal may be filed after any of the claims has been twice rejected, regardless of whether the claim(s) has/have been finally rejected ...

MPEP § 1204(IV) states in part that:

> ...
> When appellant files an appeal brief without filing a notice of appeal first, the Office should treat the appeal brief as a notice of appeal and an appeal brief. For this situation, appellant must file the brief within the time period for reply set forth in the last Office action and the fees under 37 CFR 41.20(b)(1) and (b)(2) for filing a notice of appeal and an appeal brief in compliance with 37 CFR 41.31 and 41.37.

MPEP § 1204.01 states in part that:

> If an appellant wishes to reinstate an appeal after prosecution is reopened, appellant must file a new notice of appeal in compliance with 37 CFR 41.31 and a complete new appeal brief in compliance with 37 CFR 41.37. Any previously paid appeal fees set forth in 37 CFR 41.20 for filing a notice of appeal, filing an appeal brief, and requesting an oral hearing (if applicable) will be applied to the new appeal on the same application as long as a final Board decision has not been made on the prior appeal ...

MPEP § 1207.01 states in part that:

> An appeal conference is mandatory in all cases in which an acceptable brief (MPEP § 1205) has been filed ...

MPEP § 1207.04 states in part that:

> 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 ...

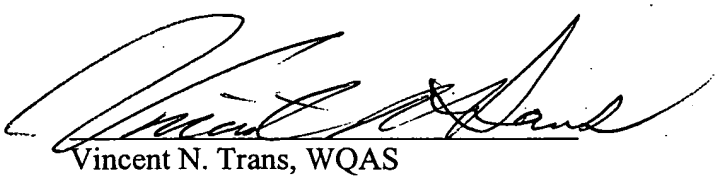
A review of the application file indicates (1) the Final Office Action mailed on 30 December 2005 and the Office Action mailed on 09 August 2006 (after filing of Appeal Brief) were contained the same ground of rejections, except the Office Action of 09 August 2006 provided an explanation of reasons for disagreement with the applicant as stated in the Appeal Brief filed on 30 May 2006; and (2) the Office Action of 09 August 2006 appeared to be a reopening of prosecution after Appeal and appeared to be improper pursuant to MPEP § 1207.04.

Pursuant to MPEP § 1204(I) and (IV) and MPEP § 1204.01, applicant can reinstate an appeal after prosecution is reopened, since the claims submitted on 30 September 2005 have been twice rejected, respectively on 30 December 2005 and 09 August 2006, on the same ground of rejections.

For the above stated reasons, the petition is **GRANTED**. Thus, the Appeal Brief filed on 09 November 2006 will be entered and the previously paid appeal fees set forth in 37 CFR § 41.20 for filing a Notice of Appeal and an Appeal Brief will be applied to the new appeal on this application.

The application has been forwarded to Technology Center Support Staff to process and enter the Appeal Brief filed on 09 November 2006. From there, the application will be forward to the examiner of record to consider the Appeal Brief and issue a proper Office communication. The examiner is hereby reminded to follow the procedure as set forth in MPEP § 1207.01.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.



Vincent N. Trans, WQAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

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FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER LLP
901 NEW YORK AVE NW
WASHINGTON DC 20001-4413

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JUN 07 2006
OFFICE OF PETITIONS

In re Application	: DECISION ON APPLICATION
Minamihaba, et al.	: FOR PATENT TERM ADJUSTMENT
Application No. 10/326,407	: AND
Filed: December 23, 2002	: NOTICE OF INTENT TO ISSUE
Patent No. 6,995,090 B2	: CERTIFICATE OF CORRECTION
Issued: February 7, 2006	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT - POST GRANT", filed April 7, 2006. Patentees request that the determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred seventy-eight (178) days to two hundred seventy-six (276) days.

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

The Patent Term Adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **two hundred seventy-six (276) days**.

On February 7, 2006, the above-identified application issued into patent No. 6,995,090. The patent stated that the patent term adjustment (PTA) is one hundred seventy-eight (178) days. On April 7, 2006, patentee timely submitted an application for

patent term adjustment, asserting that the correct number of days of PTA is two hundred seventy-six (276) days.

Patentees assert entitlement to an additional patent term adjustment under 37 C.F.R. §1.703(a)(6), on the basis that the patent issued more than four months after payment of the issue fee.

The Office determined a patent term adjustment of one hundred seventy-eight (178) days based on an adjustment for PTO delay of two hundred ninety-eight (298) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by one hundred twenty (120) days of applicant delay pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(10).

A review of the application file reveals that the issue fee was paid on July 1, 2005. The instant patent did not issue until February 7, 2006. Accordingly, PTO delay of ninety-eight (98) days should be assessed under 37 C.F.R. §1.703(a)(6).

In view thereof, the correct determination of patent term adjustment at the time of issuance of the patent is **two hundred seventy-six (276) days** (396 (298+98) days of PTO delay, reduced by 120 days of applicant delay).

The $200.00 fee set forth in 37 C.F.R. §1.18(e) has been charged to Deposit Account No. 06-0916, as authorized.

The application file is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction, indicating a Patent Term Adjustment of **two hundred seventy-six (276) days**.

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

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

Enclosure: Copy of Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,995,090 B2

DATED : February 7, 2006

INVENTOR(S) : Minamihaba, 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 (178) days

Delete the phrase "by 178 days" and insert – by 276 days—

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070423

DATE : April 23, 2007

TO SPE OF : ART UNIT 2185

SUBJECT : Request for Certificate of Correction on Patent No.: 6,880,053

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:

SANJIV SHAH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE: Sanjiv Shah **Art Unit** 2185

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)
7,072,496	2006-07-04	10/326,458	2002-12-20	MORP01-00026

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

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	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	/Matthew S. Anderson/	Date (YYYY-MM-DD)	2010-07-14
Name	Matthew S. Anderson	Registration Number	39093

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. 7072496
Issue Date: July 4,2006
Application No. 10326458
Filed: December 20,2002
Attorney Docket No. CM05147G

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

This is a decision on the electronic petition, filed July 14,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 14,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1026

COPY MAILED

NOV 12 2003

OFFICE OF PETITIONS

In re Application of	:	
Balakrishna P et al	:	
Application No. 10/326,468	:	DECISION GRANTING STATUS
Filed: December 20, 2002	:	UNDER 37 CFR 1.47(A)
For: PACKET PROCESSING IN A	:	
WIRELESS NETWORK	:	

This is in response to the petition under 37 CFR 1.47(a), filed August 29, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventors have 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 inventors at the addresses 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 Technology Center AU 2186 for examination in due course.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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RAJNEESH RATHI
7B, KRISHNA NAGAR
ANNASANDRAPALYA HAL POST
OFF AIRPORT ROAD
BANGALORE 560017 INDIA AIRMAIL

COPY MAILED

NOV 12 2003

OFFICE OF PETITIONS

In re Application of
Balakrishna P.; Sreenivasa Murthy T.; Girija Prasanna Swain; Pratap Simha; Rajneesh Rathi; and Sreenivasulu M.
Application No. 10/326,468
Filed: December 20, 2002
For: PACKET PROCESSING IN A WIRELESS NETWORK

Dear Mr. Rathi:

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

cc:
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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

SREENIVASA MURTHY T
2361, 1ST FLOOR, SRI BALAJI NILAYA
16TH MAIN, 2ND C CROSS, HAL II STAGE
INDIRA NAGAR, BANGALORE 560038
INDIA AIRMAIL

COPY MAILED

NOV 12 2003

OFFICE OF PETITIONS

In re Application of
Balakrishna P.; Sreenivasa Murthy T.; Girija Prasanna Swain; Pratap Simha; Rajneesh Rathi; and Sreenivasulu M.
Application No. 10/326,468
Filed: December 20, 2002
For: PACKET PROCESSING IN A WIRELESS NETWORK

Dear Mr. Sreenivasa Murthy T:

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

cc:
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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GIRIJA PRASANNA SWAIN
DOOR NO. 49, 10TH A . CROSS
PRASHANTHANAGAR
BANGALORE 560079
AIRMAIL

COPY MAILED

NOV 12 2003

OFFICE OF PETITIONS

In re Application of
Balakrishna P.; Sreenivasa Murthy T.; Girija Prasanna Swain; Pratap Simha; Rajneesh Rathi; and Sreenivasulu M.
Application No. 10/326,468
Filed: December 20, 2002
For: PACKET PROCESSING IN A WIRELESS NETWORK

Dear Mr. Swain:

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

cc:
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

UNITED STATES PATENT AND TRADEMARK OFFICE

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PRATAP SIMHA
680, 36TH CROSS, 10TH A MAIN
4TH BLOCK, JAYANAGAR
BANGALORE 560011
INDIA AIRMAIL

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NOV 12 2003

OFFICE OF PETITIONS

In re Application of
Balakrishna P.; Sreenivasa Murthy T.; Girija Prasanna Swain; Pratap Simha; Rajneesh Rathi; and Sreenivasulu M.
Application No. 10/326,468
Filed: December 20, 2002
For: PACKET PROCESSING IN A WIRELESS NETWORK

Dear Mr. Simha:

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

cc:
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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

KACVINSKY DAISAK PLLC
C/O CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 07/15/2010

Applicant	: Balakrishna P.	: DECISION ON REQUEST FOR
Patent Number	: 7646716	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/326,468	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/20/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1183** 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. 9

MAIL

APR 2 7 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

David B Ritchie
Thelen Reid & Priest LLP
P O Box 640640
San Jose CA 95164-0640

In re Application of :
Benny J. Thottakkara :
Application No. 10/326,494 : DECISION ON REQUEST TO
Filed: : December 20, 2002 : WITHDRAW AS ATTORNEY
For: **OPTIMIZATIONS AND ENHANCEMENTS TO THE IEEE RSTP 802.1W IMPLEMENTATION** :

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on May 19, 2003.

A grantable request to withdraw as attorney/agent of record must do the following:
(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.

The Request to Withdraw as Attorney is **DISMISSED AS MOOT**.

Attorneys requesting withdraw are not of record due to a Revocation of Power of Attorney filed by Assignee on July 7, 2003.

All future communications from the Office will be directed to the address listed above 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. A courtesy copy of the decision will be sent to the petitioner at the address below

The file is being returned to TC 2600 Central Files to await an examination in appropriate turn.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

cc: Arnold M. de Guzman
deGuzman & Carpenter LLP
5276 Hollister Avenue, Suite 160
Santa Barbara, CA 93111

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ALEXANDRIA, VA 22313-1450
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CANON U.S.A. INC. INTELLECTUAL PROPERTY DEPARTMENT
15975 ALTON PARKWAY
IRVINE CA 92618-3731

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MAR 16 2005

OFFICE OF PETITIONS

Applicant: Kuramoto et al.
Appl. No.: 10/326,510
Filing Date: December 19, 2002
Title: HANDLE FOR DIGITAL RADIOGRAPHY PANEL
Pub. No.: US 2004/0120460 A1
Pub. Date: June 24, 2004

This is in response to the "Petition Under 37 CFR 1.182" received on June 30, 2004, requesting that the above identified application be updated to include the assignee information that was submitted with the application, is being treated as a request for corrected publication.

The request is DISMISSED.

The instant request is that the patent application publication be republished because the assignee information (Canon U.S.A., Inc.), was submitted on the filing date of the application is missing from the front page of the publication.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The instant request does not identify a material mistake in the publication made by the Office. The assignment information was not printed on the patent application publication, because it was not provided on the transmittal letter or on an application data sheet.[2] The Office prints the assignee information as reflected on the transmittal letter or application data sheet, if provided by applicant and does not look at the assignment records for the assignment information.

Even if the assignment information was properly provided by applicant, this would not be a material mistake. A "material mistake" must affect the public's ability to appreciate the technical

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

[2] See Comment 59, Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57047 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 84 (Oct. 10, 2000) (final rule).

disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

On February 18, 2003 and March 25, 2003, Filing Receipts were mailed, which did not list the assignment information. To avoid this type of problem in the future, applicant's representative should make a request for a corrected filing receipt using the facsimile number (703-746-9195) on the Filing Receipt.

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.

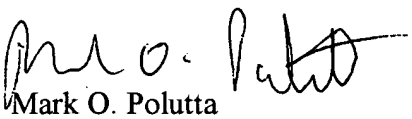
Since a petition fee is not required for a request for corrected publication under 37 CFR 1.221(b), the petition fee charged to Applicants' deposit has been refunded.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions should be addressed as follows:

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

By facsimile: 703-872-9306

Inquires concerning this communication should be directed to Mark Polutta at (571) 272-7709.



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

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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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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JAN 29 2007

OFFICE OF PETITIONS

In re Application of :
ALLRED :
Application No. 10/326,517 : DECISION ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. TI 34868 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 11, 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 September 13, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed June 13, 2006 . Accordingly, the date of abandonment of this application is September 14, 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.

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

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

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Fish & Richardson, P.C.
P.O. Box 1022
Minneapolis, MN 55440-1022

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MAY 31 2007

OFFICE OF PETITIONS

In re Application of :
James Andrew Canfield :
Application No. 10/326,548 : DECISION ON PETITION
Filed: December 23, 2002 : TO WITHDRAW
Attorney Docket No. 06975-345001/Communicat : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 2, 2007.

The request is **APPROVED**.

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

The request was signed by Scott R. Boalick, former attorney with the firm of Fish & Richardson, P.C.

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

The correspondence address of record remains unchanged.

There are no outstanding office actions at this time.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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OYEN, WIGGS, GREEN & MUTALA LLP
480 - THE STATION
601 WEST CORDOVA STREET
VANCOUVER BC V6B 1G1 CA CANADA

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JAN 22 2007

OFFICE OF PETITIONS

In re Application of
Yehia et al.
Application No. 10/326,553
Filed: December 23, 2002
Attorney Docket No. Y033 0019/GSO

ON PETITION

This is a decision on the petition under 37 CFR §1.181(a) to withdraw the holding of abandonment, filed December 23, 2006.

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

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 June 29, 2006. 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 September 30, 2006. A Notice of Abandonment was mailed on November 2, 2006.

Petitioner asserts that the Notice of Draftsperson's Patent Drawing Review purportedly attached to the Notice of Allowability mailed on June 29, 2006 was never received. Petitioner states the Non-final Office Action mailed on June 1, 2005 indicated the drawings received on December 23, 2002 were accepted. Upon receipt of the Notice of Allowability which did not include the Draftsperson Review Petitioner states a letter to that effect was submitted on July 18, 2006. An auto-reply dated July 18, 2006 in support of the petition has also been submitted.

A review of the record shows a copy of the Draftsperson Review cannot be located.

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

This application is being forwarded to Art Unit 1744 for re-mailing of the Notice of Allowability including the Draftsperson Review. The three month non-extendable time period for reply will be set to run from the mailing date of the new Office Communication.

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

Charlema R. Grant

Petitions Attorney

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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POSZ & BETHARDS, PLC
11250 ROGER BACON DRIVE
SUITE 10
RESTON VA 20190

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SEP 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Naohiko Hirano et al :
Application No. 10/326,555 : ON PETITION
Filed: December 23, 2002 :
Attorney Docket No. 01-373 :

This is a decision on the petition, filed September 1, 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 20, 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 2811 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. 7

Steven Thrasher
391 Sandhill Drive
Richardson, TX 75080

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MAY 1 4 2004

OFFICE OF PETITIONS

In re Application of :
Lisa Lloyd :
Application No. 10/326,560 : ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. 12001.00021 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 30, 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 11, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight April 11, 2003.

In response to the Notice to File Missing Parts, petitioner submitted with the instant petition $665 for the petition to revive fee, an oath/declaration, a $65 surcharge for the late filing of the oath/declaration, and one (1) sheet of informal drawings containing Figures 1-2.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement.

Since the requirements for a grantable petition have been met, the petition is **GRANTED**.

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

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LISA V. LLOYD
P O BOX 32844
TUCSON, AZ 85751-2844

COPY MAILED
NOV 17 2006
OFFICE OF PETITIONS

In re Application of	:	
Lisa V. Lloyd	:	
Application No. 10/326,560	:	DECISION ON PETITION
Filed: December 20, 2002	:	UNDER 37 CFR 1.137(b)
For: PORTABLE AIRBRUSH	:	

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

The petition is **DISMISSED**.

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

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

This application became abandoned for failure to file a proper and timely reply within the meaning of 37 CFR 1.113 to the final rejection of July 1, 2005, within the time period for reply. The proposed reply required for consideration of a petition to revive

must be a (1) Notice of Appeal (and fee required by law), (2) an amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise *prima facie* places the application in condition for allowance; (3) a Request for Continued Examination (RCE), along with the required fee and submission in accordance with 37 CFR 1.114, or (4) the filing of a continuing application pursuant to the provisions of 37 CFR 1.53(b). Since the amendment submitted does not *prima facie* place the application in condition for allowance (see attached Advisory Action), petitioner must submit the reply required to continue prosecution in order to effect revival of the instant application.

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

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

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

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

Attachment: Copy of Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/326,560	Applicant(s) LLOYD, LISA	
	Examiner Steven J. Ganey	Art Unit 3752	

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

THE REPLY FILED 26 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

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

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

NOTICE OF APPEAL

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

AMENDMENTS

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

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

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

STEVEN J. GANEY
PRIMARY EXAMINER
11/9/06

Continuation of 3. NOTE: The amendment to claim 18 changes the scope of the claim, raises a new issue and requires further search and consideration6.

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

LISA V. LLOYD
660 N. SWAN ROAD
TUCSON, AZ 85711

COPY MAILED

JUL 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Lisa V. Lloyd	:	
Application No. 10/326,560	:	DECISION ON PETITION
Filed: December 20, 2002	:	UNDER 37 CFR 1.137(b)
For: PORTABLE AIRBRUSH	:	

This is a SUBSTITUTE decision on the petition under 37 CFR 1.137(b), filed March 1, 2006, to revive the above-identified application. The decision on petition mailed on November 17, 2006 was returned to the Office as undeliverable. As petitioner did not receive this action, the decision is being remailed and the period for reply reset.

The petition is **DISMISSED.**

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

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

This application became abandoned for failure to file a proper and timely reply within the meaning of 37 CFR 1.113 to the final rejection of July 1, 2005, within the time period for reply. The proposed reply required for consideration of a petition to revive must be a (1) Notice of Appeal (and fee required by law), (2) an amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise *prima facie* places the application in condition for allowance; (3) a Request for Continued Examination (RCE), along with the required fee and submission in accordance with 37 CFR 1.114, or (4) the filing of a continuing application pursuant to the provisions of 37 CFR 1.53(b). Since the amendment submitted does not *prima facie* place the application in condition for allowance (see attached Advisory Action), petitioner must submit the reply required to continue prosecution in order to effect revival of the instant application.

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

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

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

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

Attachment: Copy of Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/326,560	Applicant(s) LLOYD, LISA	
	Examiner Steven J. Ganey	Art Unit 3752	

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

THE REPLY FILED 26 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

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

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

NOTICE OF APPEAL

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

AMENDMENTS

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

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

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

STEVEN J. GANEY
PRIMARY EXAMINER
11/9/06

Continuation of 3. NOTE: The amendment to claim 18 changes the scope of the claim, raises a new issue and requires further search and consideration6.

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DAVID O. SEELEY
P.O. BOX 45862
SALT LAKE CITY UT 84145

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AUG 1 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Rebecca Jayne Davies et al	:	
Application No. 10/326,565	:	ON PETITION
Filed: December 19, 2002	:	
Attorney Docket No. 15201.3.1	:	

This is a decision on the petition under 37 CFR 1.313, filed August 13, 2004 requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

The filing of a petition to withdraw this application from issue is unnecessary at this time. The mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue.

The $130 petition fee will not be charged as authorized.

Petitioner may request the refund of the issue fee paid on July 2, 2004, or request that the issue fee be applied to a new notice of allowance.

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.

Inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

The file will be referred to Technology Center AU 3743 for appropriate processing of the RCE filed June 22, 2004.

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

cc:
DAVID O. SEELEY
HOLME ROBERTS & OWEN LLP
299 SOUTH MAIN, SUITE 1800
SALT LAKE CITY, UT 84111

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **8/21/08**

TO SPE OF : ART UNIT **2614 (2600)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/326,572** Patent No.: **7,218,721**

Attn: Curtis Kuntz

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

***ATTN: Ok to enter changes as requested in the cocin?**

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

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

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

Comments: _____

CURTIS KUNTZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIGIMARC CORPORATION
9405 SW GEMINI DRIVE
BEAVERTON, OR 97008

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JAN 07 2009

OFFICE OF PETITIONS

In re Application of :
Geoffrey B. Rhoads :
Application No. 10/326,575 : DECISION ON PETITIONS
Filed: December 20, 2002 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. P0761 :

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed October 29, 2008, 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 concurrently filed Application Data Sheet (ADS).

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

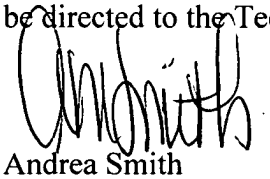
Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application. All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

This application is being forwarded to Technology Center Art Unit 2437 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

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



Andrea Smith
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/326,575	12/20/2002	2437	880	P0761	16	3

CONFIRMATION NO. 2870

23735
DIGIMARC CORPORATION
9405 SW GEMINI DRIVE
BEAVERTON, OR 97008

CORRECTED FILING RECEIPT

OC00000033928888

Date Mailed: 01/06/2009

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

Applicant(s)

Geoffrey B. Rhoads, West Linn, OR;

Power of Attorney: The patent practitioners associated with Customer Number 23735

Domestic Priority data as claimed by applicant

This application is a CIP of 09/837,564 04/17/2001 ABN
which claims benefit of 60/198,138 04/17/2000
and claims benefit of 60/198,849 04/21/2000
This application 10/326,575
is a CIP of 10/011,129 11/09/2001 PAT 6,970,573
which is a CON of 09/442,780 11/18/1999 PAT 6,389,151
which claims benefit of 60/109,259 11/19/1998
This application 10/326,575
is a CIP of 09/198,022 11/23/1998 PAT 6,546,112
which is a CON of 08/763,847 12/04/1996 PAT 5,841,886
which is a CON of 08/512,993 08/09/1995 ABN
which is a CIP of 08/436,098 05/08/1995 PAT 5,636,292
and is a CIP of 08/436,099 05/08/1995 PAT 5,710,834
and is a CIP of 08/436,134 05/08/1995 PAT 5,748,763
and is a CIP of 08/438,159 05/08/1995 PAT 5,850,481

Foreign Applications

If Required, Foreign Filing License Granted: 01/30/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/326,575**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

Personal document authentication system using watermarking

Preliminary Class

713

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

NOT GRANTED

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

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Paper No. 8

KOLISCH HARTWELL, P.C.
520 S.W. YAMHILL STREET
SUITE 200
PORTLAND, OR 97204

COPY MAILED

APR 30 2004

OFFICE OF PETITIONS

In re Application of :
Larsen, et al. :
Application No. 10/326,610 : ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. FWS 303 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 9, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed February 6, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 7, 2003. A Notice of Abandonment was mailed on January 28, 2004.

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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KOLISCH HARTWELL, P.C.
520 S.W. YAMHILL STREET
SUITE 200
PORTLAND, OR 97204

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MAY 0 6 2004

OFFICE OF PETITIONS

In re Application of :
N. Tim Larsen and Dale Wolf :
Application No. 10/326,610 : DECISION REFUSING STATUS
Filed: December 20, 2002 : UNDER 37 CFR 1.47(a)
For: :

METHOD AND APPARATUS FOR ANTI-CORROSIVE COATING

This is in response to the "Petition Under 37 CFR 1.47(a)," filed April 9, 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(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on December 20, 2002 without an executed oath or declaration and naming N. Tim Larsen and Dale Wolf as joint inventors.

Accordingly, on February 6, 2003, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and the filing fee, and the surcharge for their late filing.

In response, on April 9, 2004, the instant petition was filed.

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

> (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been

presented with the application papers (specification, claims and drawings);

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

(3) the petition fee; and

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

Applicant lacks item (1), as set forth above.

As to item (1), applicant appears to demonstrate that the non-signing inventor was only presented with the declaration. Unless the non-signing inventor was presented with a copy of the application papers (specification, claims and drawings), the non-signing inventor could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration which he was given. Accordingly, Rule 47 applicant failed to show or provide proof that the inventor has refused to sign the declaration. See Manual of Patent Examining Procedure, Section 409.03(d). Petitioner should show that a copy of the application papers was presented to the non-signing inventor, but that he did not respond to, or refused, the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

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
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

Telephone inquiries related to this decision should be directed to Petitions Attorney Edward Tannouse at (703) 306-9200.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHERNOFF, VILHAUER, MCCLUNG & STENZEL
1600 ODS TOWER
601 SW SECOND AVENUE
PORTLAND, OR 97204-3157

COPY MAILED

AUG 16 2005

OFFICE OF PETITIONS

In re Application of :
Larsen, et al. :
Application No. 10/326,610 : ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. FWS 303 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 23, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed February 6, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 7, 2003. A Notice of Abandonment was mailed on January 28, 2004. In response, a petition under 37 CFR 1.137(b) and a petition under 37 CFR 1.47(a) were submitted. The petition under 37 CFR 1.47(a) was dismissed on May 6, 2004. As such, the required reply to revive the application was not submitted and the petition under 37 CFR 1.137(b) should have been dismissed. As such, the application remained abandoned. Accordingly, the instant petition shall be viewed as a request for reconsideration of the petition under 37 CFR 1.137(b). The Office sincerely apologizes for this error and any inconvenience caused to petitioner.

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. 11/165,852.

Please note, the application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. Furthermore, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If

petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. As a one-time courtesy, a 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 file is being forwarded to Files Repository.

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

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
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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DOV ROSENFELD
5507 COLLEGE AVE
SUITE 2
OAKLAND CA 94618

MAILED

APR 15 2010

OFFICE OF PETITIONS

In re Patent No. 7,627,629
Issue Date: December 1, 2009
Application No. 10/326,617
Filed: December 19, 2002
Attorney Docket No. CISCO-6369

: DECISION GRANTING PETITION
: UNDER 37 CFR .178(a)(6) AND
: REQUEST FOR CERTIFICATE OF
: CORRECTION

This is a decision on the petition under 37 CFR 1.78(a)(6), filed December 10, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of a prior-filed provisional application by way of certificate of correction.

The petition is **GRANTED.**

The instant application was filed December 19, 2002. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(6), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. See MPEP 1481.

A petition 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 Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842.

This application is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.78(a)(6).

/David Bucci/
David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/326,617	12/19/2002	2455	2546	CISCO-6369	97	8

CONFIRMATION NO. 3316

21921
DOV ROSENFELD
5507 COLLEGE AVE
SUITE 2
OAKLAND, CA 94618

REPLACEMENT FILING RECEIPT

Date Mailed: 04/15/2010

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

Applicant(s)

Fang Wu, San Jose, CA;
Wen-hsiung Chen, Sunnyvale, CA;
Philip R. Graham, Milpitas, CA;
Gregory D. Pelton, Raleigh, NC;

Power of Attorney: The patent practitioners associated with Customer Number 21921

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/422,201 10/30/2002

Foreign Applications

If Required, Foreign Filing License Granted: 01/09/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/326,617**

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

METHOD AND APPARATUS FOR MULTIPOINT CONFERENCING

Preliminary Class

709

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.

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LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DOV ROSENFELD
5507 COLLEGE AVE
SUITE 2
OAKLAND, CA 94618

Mail Date: 06/03/2010

Applicant	: Fang Wu	: DECISION ON REQUEST FOR
Patent Number	: 7627629	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/326,617	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/19/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1336** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:110319

DATE : March 24, 2005

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction on Patent No.: 6,780,709 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: David Nelms **Art Unit** 2818

OIPE
JAN 21 2005
JC37 Rec'd PCT/PTO

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: MS Post Issue, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: January 18, 2005 Signature: _____
(Michael B. Hull)

10/326649

C90C

Docket No.: 29925/39012
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of:

WOO et al.

Certificate
JAN 27 2005
of Correction

Patent No.: 6,780,709 B2

Issued: August 24, 2004

Approved
Dlw 3/24/05

For: METHOD FOR FORMING
CHARGE STORAGE NODE

REQUEST FOR CERTIFICATE OF CORRECTION
PURSUANT TO 37 CFR 1.322

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

Dear Sir:

Upon reviewing the above-identified patent, Patentees noted two typographical errors which should be corrected.

APPLICATION PAGE NO.	APPLICATION LINE NO.	COLUMN NO.	LINE NO.	ERROR
Power of Attorney filed December 19, 2002	Page 2 City	Title Page Column 1	Field (75) Inventors	PTO
Examiner's Amendment dated May 24, 2004	Claim 1 Line 21	Column 4	Line 29	PTO

The errors were not in the application as filed by applicants; accordingly no fee is required.

JAN 28 2005

Transmitted herewith is a proposed Certificate of Correction effecting such amendment. Patentees respectfully solicit the granting of the requested Certificate of Correction.

Respectfully submitted,
MARSHALL, GERSTEIN & BORUN LLP
6300 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606
312-474-6300

By: _____
Michael R. Hull
Registration No. 35,902
Attorney for Applicants

January 18, 2005

801613

JAN 2 8 2005

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
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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,780,709 B2

DATED : August 24, 2004

INVENTOR(S) : WOO et al.

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

Title Page
Column 1
Field (75): Inventor

After "Sang-ho Woo," please delete "Icheon-shi"
and insert -- Kyunggi-do -- in its place.

Claim 1
Column 4
Line 29

After "of the polysilicon film disposed"
please delete "in the contact hole"
and insert -- in the second contact hole -- in its place.

MAILING ADDRESS OF SENDER:

Michael R. Hull
MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357

PATENT NO. 6,780,709

No. of additional copies 3

JAN 28 2005

OIPE JC37
JAN 21 2005
PATENT & TRADEMARK OFFICE

PTO/SB/92 (09-04)
Approved for use through 07/31/2006. OMB 0651-0031
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Application No. (if known): 10/326,649 Attorney Docket No.: 29925/39012

Certificate of Mailing under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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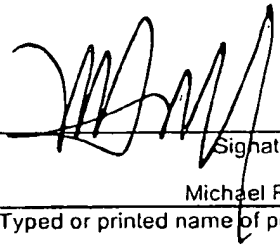
on January 18, 2005
Date



Signature

Michael R. Hull
Typed or printed name of person signing Certificate

35,902
Registration Number, if applicable

(312) 474-9577
Telephone Number

Note: Each paper must have its own certificate of mailing, or this certificate must identify each submitted paper.

Request for Certificate of Correction (No Fee)

PTO/SB/44 (04-04)
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Chicago, Illinois 60606-6357

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Sears Tower
Chicago, Illinois 60606-6357

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MAILING ADDRESS OF SENDER:

PATENT NO. 6,780,709

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Chicago, Illinois 60606-6357

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233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357

PATENT NO. 6,780,709

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WASHINGTON, D.C. 20231
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Paper No. 4

ARMSTRONG WESTERMAN & HATTORI
SUITE 220
502 WASHINGTON AVENUE
TOWSON, MD 21204

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MAR 1 3 2003

OFFICE OF PETITIONS

In re Application of :
Dana L. Delaney et al :
Application No. 10/326,662 : NOTICE
Filed: December 19, 2002 :
Attorney Docket No. 02273-PA :

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
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GRIFFINGER & VECCHIONE
1 RIVERFRONT PLAZA
NEWARK, NJ 07102-5497

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APR 27 2005

OFFICE OF PETITIONS

In re Application of :
Mark A. Goldberg :
Application No. 10/326,667 : ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. 103568-46684 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 11, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed December 8, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 9, 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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ATL ULTRASOUND
P.O. BOX 3003
22100 BOTHELL EVERETT HIGHWAY
BOTHELL, WA 98041-3003

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FEB 23 2005

OFFICE OF PETITIONS

In re Application of :
Richard Davidsen :
Application No. 10/326,670 : ON PETITION
Filed: December 19, 2002 :
Attorney Docket No. US009244 :

This is a decision on the petition under 37 CFR 1.137, filed November 3, 2004, to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

A review of the official file record discloses that the Office mailed the Notification of Non-Compliance With 37 CFR 1.192(c) (Notice) on July 14, 2004, which set a period for reply of: (1) one (1) month or thirty (30) days (whichever is later); (2) two (2) months from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENSIONS OF THESE TIME PERIODS ARE AVAILABLY PURSUANT TO THE PROVISIONS OF 37 CFR 1.136**. Therefore, a reply, with the appropriate extension of time fee, was due on or before January 14, 2005. Accordingly, since this case was not in fact abandoned at the time of filing the instant petition, the petition was prematurely filed and is dismissed as moot.

In view of the above and as authorized, the appropriate three month extension of time fee of $980.00 will be charged to Deposit Account No. 14-1270. The $110.00 fee assessed to the instant petition is unnecessary and will be credited to the above-noted deposit account.

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

This matter is being referred to Technology Center AU 2834.

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

REED SMITH, LLP
TWO EMBARCADERO CENTER
SUITE 2000
SAN FRANCISCO, CA 94111

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MAR 18 2008

OFFICE OF PETITIONS

In re Application of :
PHILLIPS, Joel R. et al. :
Application No. 10/326,679 : DECISION ON PETITION
Filed: December 20, 2002 : TO WITHDRAW
Attorney Docket No. **7058642001** : 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 13, 2007.

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 REED SMITH, LLP has been revoked by the assignee of the patent application on December 21, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **BINGHAM MCCUTCHEN LLP**
THREE EMBARCADERO CENTER
SAN FRANCISCO, CA 94111-4067

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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ROCHE MOLECULAR SYSTEMS INC
PATENT LAW DEPARTMENT
1145 ATLANTIC AVENUE
ALAMEDA CA 94501

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JUL 27 2006
OFFICE OF PETITIONS

In re Application of :
Dieter Heindl et al. :
Application No. 10/326,699 : ON PETITION
Filed: December 19, 2002 :
Attorney Docket No.: 20977US :

This is a decision on the petition filed June 19, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed September 20, 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 December 21, 2005. Accordingly, a Notice of Abandonment was mailed on May 23, 2006.

This matter is being referred to Technology Center 1637 for appropriate action on the amendment filed June 19, 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)).

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROCHE MOLECULAR SYSTEMS INC.
PATENT LAW DEPARTMENT
1145 ATLANTIC AVENUE
ALAMEDA, CA 94501

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MAR 26 2007

OFFICE OF PETITIONS

In re Application of	:	
Dieter Heindl et al	:	
Application No. 10/326,699	:	DECISION ON PETITION
Filed: December 19, 2002	:	UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. 20977-US	:	

This is a decision on the petition, filed March 23, 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.

The petition complies with the requirements of 37 CFR 1.313(c)(3). Accordingly, 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

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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 C. RIPMA, PATENT COUNSEL
SHARP LABORATORIES OF AMERICA
5750 NW PACIFIC RIM BLVD.
CAMAS, WA 98607

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MAR 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Pan, et al. :
Application No. 10/326,712 : ON PETITION
Filed: December 19, 2002 :
Attorney Docket No. SLA0659 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 23, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed March 10, 2004. Accordingly, this application became abandoned on June 11, 2004. A Notice of Abandonment was mailed on December 8, 2004.

The file is being forwarded to Technology Center 2800 for review of the amendment, submitted February 23, 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

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P.O. Box 1450
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KANG LIM
3494 CAMINO TASSAJARA ROAD #436
DANVILLE CA 94306

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AUG 07 2006

OFFICE OF PETITIONS

In re Application of :
Edelman, et al. :
Application No. 10/326,714 : ON PETITION
Filed: December 19, 2002 :
Attorney Docket No. VTL 303 :
For: FLUID CIRCUIT CONNECTOR SYSTEM

This is a decision on the petition under 37 CFR 1.181, filed April 5, 2004, requesting that the Office withdraw the holding of abandonment of the above-identified application.

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

This application was held abandoned for failure to respond in a timely manner to the non-final Office action, mailed July 7, 2003, which set forth an extendable three (3) month period for reply. The Office contended that this application became abandoned on October 8, 2003 for failure to reply to the July 7, 2003 non-final Office action. A Notice of Abandonment was mailed on January 13, 2004.

Petitioners assert an amendment and a request for a three month extension of time were timely filed on certificate of mailing date January 7, 2004 and received in the Office on January 12, 2004. The undersigned finds this assertion completely convincing as an amendment and a transmittal form containing a certificate of mailing dated January 7, 2004 are present in the application file. Office financial records shows that the three month extension of time fee was paid by a check that was negotiated on January 14, 2004.

The petition under 37 CFR 1.181 is **granted** and the Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

Accordingly, the application file will be forwarded to Technology Center A.U. 3753 for consideration of the amendment filed on January 12, 2004.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/16/04

Paper No.: _____

TO SPE OF : ART UNIT 2829

SUBJECT : Request for Certificate of Correction on Patent No.: 6723623 B1

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

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

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

Virginia Tolbert

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:

Corrections do not alter the scope of the claims.

Hien Nguyen
SPE

2829
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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CAROL WILSON
BP AMERICA INC.
MAIL CODE 5 EAST
4101 WINFIELD ROAD
WARRENVILLE IL 60555

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FEB 20 2008

In re Application of :
Sailendra Nemana et al. :
Application No. 10/326,792 : ON PETITION
Filed: December 19, 2002 :
Attorney Docket No. CN 37,381 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 6, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 16, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not prima facie place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

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.

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 Terri Williams at (571) 272-2991.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosed: Examiner's Advisory Action (PTOL –303)

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/326,792	**Applicant(s)** NEMANA ET AL.	
	Examiner Yelena G. Gakh, Ph.D.	**Art Unit** 1797	

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

THE REPLY FILED 06 March 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

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

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

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

NOTICE OF APPEAL

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

AMENDMENTS

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

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

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

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

/Yelena G. Gakh/
Primary Examiner, Art Unit 1797

Continuation of 3. NOTE: the proposed amendment significantly changes the scope of the claims, which requires additional examination.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CAROL WILSON
BP AMERICA INC.
MAIL CODE 5 EAST
4101 WINFIELD ROAD
WARRENVILLE IL 60555

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OCT 2 0 2008

OFFICE OF PETITIONS

In re Application of :
Sailendra Nemana, et al. :
Application No. 10/326,792 : ON PETITION
Filed: December 19, 2002 :
Attorney Docket No. CN 37,381 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 17, 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 March 16, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). 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 June 17, 2006. The Notice of Abandonment was mailed October 13, 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 $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,500 (previously paid); 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.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application.

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

This application is being referred to Technology Center AU 1743 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

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.

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

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FEB 21 2006

OFFICE OF PETITIONS

In re Application of :
Shigeto Yamada : DECISION ON PETITION
Application No. 10/326,793 :
Filed: December 19, 2002 :
Attorney Docket No. 9281-4456 :

This is a decision on the "REQUEST FOR CORRECTION OF PATENT TERM ADJUSTMENT" filed June 16, 2003. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from nine (9) days to one hundred forty-six (146) days. Alternatively, applicant requests under 37 CFR § 1.703(b) for the difference between 3 years from the filing date of the application (December 19, 2005) and issuance of the patent.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being held in abeyance until after the actual patent date. Knowledge of the actual date the patent issues is 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).

Patentees are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Patentees may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated

in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

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

On November 15, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 9 days. On January 23, 2006, applicant timely[1] submitted an application for patent term adjustment (with required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is 146 days. Applicant contends that a period of adjustment of 158 days should be entered for Office delay in mailing an action under 35 U.S.C. 132 in response to applicant's September 21, 2004 amendment. Applicant states that the response filed September 21, 2004 was a bona fide attempt to advance the application to final action, as required under 37 CFR § 1.111(b). However, applicant contends that the Notice of Non-compliant Amendment mailed January 27, 2005 is not an action under 35 U.S.C. 132, and thus, does not stop the clock for purposes of calculating Office delay pursuant to 1.703(a)(2). Rather, applicant argues the period of adjustment continues to run until the Office's mailing of a restriction requirement on June 28, 2004.

Applicant states that this application is not subject to any terminal disclaimers.

Applicant's arguments have been considered, but not found persuasive.

37 CFR § 1.702(a)(2) provides a ground for adjustment where the Office fails to:

> Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 later than four months after the date on which the reply was filed or the appeal was taken

37 CFR 1.703(a)(2) further provides that:

---

[1] PALM records indicate that the issue fee payment was received on February 13, 2006.

> the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

A review of the PTA calculations of record reveals that applicant's response filed September 21, 2004, was properly treated as a reply under § 1.111. Moreover, the Notice of Non-compliant Amendment, mailed within four months of the date of filing of the response, is an action under 35 U.S.C. 132. As such, the Office properly did not enter a period of adjustment for Office delay in taking action in response to the September 21, 2004 response. The correct reduction is the 21 days entered for the Office delay in taking action in response to the compliant response filed February 7, 2005.

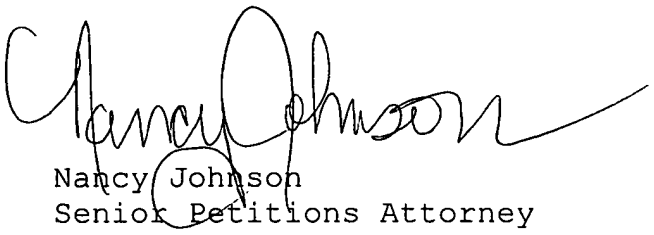
In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is nine (9) days.

Petitioner is reminded that 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 also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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120172 1011

Paper No. 13

DOCKETED
Request for Reconsideration of Petition Under 37 CFR 1.47(a)
DUE 5/14/01

DANIEL F. PEREZ
GARDERE & WYNNE
3000 THANKSGIVING TOWER
1601 ELM STREET
DALLAS, TEXAS 75201

COPY MAILED

MAR 14 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of	:
Kathleen Shupe and Billy C. Coats	:
Application No. 09/262,731	: DECISION REFUSING STATUS
Filed: March 4, 1999	: UNDER 37 CFR 1.47(a)
Attorney Docket No. ~~120172-1010~~	:

This is in response to the petition under 37 CFR 1.47(a), filed July 12, 1999.[1]

The petition is dismissed.

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

The above-identified application was filed on March 4, 1999 without an executed oath or declaration and naming Kathleen Shupe and Billy C. Coats as joint inventors.

Accordingly, on March 23, 1999, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

---

[1] The existence of the instant petition was only recently brought to the attention of the deciding official. The delay in replying to the instant petition and the inconvenience caused petitioner by this delay is sincerely regretted.

In response, on July 12, 1999, a request for extension of time and fee; $130 surcharge fee; petition under 37 CFR 1.47(a) and fee, declaration of joint inventor Coats in support of the petition, along with supporting evidence; and a declaration executed by joint inventor Coats but not by joint inventor Shupe, were received.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the nonsigning inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (1) and (2) set forth above.

As to item (1), unless a copy of the instant nonprovisional application papers (specification, claims and drawings) was presented to joint inventor Kathleen Shupe, Ms. Shupe could not attest that she has "reviewed and understands the application papers" and therefore could not sign the declaration which she was given. In this regard, while the letter dated April 13, 1998 indicates that a copy of the "provisional application" was sent to Robert Galecke, Vice President of the University of Dallas , the evidence fails to disclose that a copy of the application papers for the subject "nonprovisional" application was presented to the inventor or to Robert Galecke of the University of Dallas for the purpose of obtaining the signature of inventor Shupe. Accordingly, Rule 47 applicant has failed to show or provide proof that the inventor has refused to sign the declaration after having been presented with the instant nonprovisional application papers. Did the inventor receive the application papers of the instant nonprovisional application? See Manual of Patent Examining Procedure, Section 409.03(d). Petitioner should show that a copy of the nonprovisional application papers was presented to the inventor or to the University of Dallas for presentation to inventor Shupe for the purpose of obtaining her signature on the oath or declaration, but that no response to the request that Ms. Shupe sign the oath/declaration was received in order to show that the inventor has refused to join in the application. The cover letter of instructions should include a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events and supported with documentary evidence in support thereof.

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. The declaration received July 12, 1999 does not set forth inventor Kathleen Shupe's residence and mailing address. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by inventor

Billy C. Coats on behalf of himself and on behalf of nonsigning inventor Shupe is REQUIRED. See MPEP 409.03(a).

In order to expedite consideration, petitioner may wish to submit the renewed petition under 37 CFR 1.47(a) by facsimile transmission to the telephone number indicated below and to the attention of the undersigned.

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

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

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

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

Telephone inquiries related to this decision should 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DANIEL F. PEREZ
GARDERE & WYNNE
3000 THANKSGIVING TOWER
1601 ELM STREET
DALLAS, TEXAS 75201

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MAY 14 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Kathleen Shupe and Billy C. Coats :
Application No. 09/262,731 : DECISION ACCORDING
Filed: March 4, 1999 : STATUS UNDER 37 CFR 1.47(a)
Attorney Docket No. 120172-1010 (a)(1) :
:

This is in response to the petition filed by facsimile transmission on May 10, 2001 requesting reconsideration of a decision mailed March 14, 2001 refusing to accord status under 37 CFR 1.47(a) to the instant application.

The petition is granted.

Petitioner has shown that the nonsigning 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(a), this Office will forward notice of this application's filing to the nonsigning inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Publishing Division

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
Washington, D.C. 20231
www.uspto.gov

Paper No. 6

MATTHEW E BURR
GARDERE WYNNE SEWELL LLP
1601 ELM STREET
SUITE 3000
DALLAS TX 75201

COPY MAILED

SEP 2 8 2001

OFFICE OF PETITIONS

In re Application of :
Kathleen Shupe and Billy C. Coats :
Application No. 09/789,179 : LETTER ACCORDING STATUS
Filed: February 20, 2001 : UNDER 37 C.F.R. 1.47(a)
Attorney Docket No. 120172-1013 :
Title: ANTIMICROBIAL AGENTS :
ISOLATED FROM ALOE VERA :

The above-identified application was filed on February 20, 2001, as a continuation of parent application 09/262,731[1]. No executed oath or declaration was submitted. However, the parent application was accorded Rule 1.47(a) status in a decision mailed on May 14, 2001. Accordingly, the above-identified application has also been found to be in compliance with 37 C.F.R. 1.47(a).[2]

The above-identified application is hereby **accorded Rule 1.47(a) status**.

The above-identified application is being forwarded to the Office of Initial Patent Examination for continuation of pre-examination processing.

Telephone inquiries regarding this letter should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The parent application issued as Patent 6,290,984 on September 18, 2001.

[2] See MPEP 201.06(c), at 200-30, 200-31.

GARDERE WYNNE S

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UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

CHALKER FLORES LLP
12700 PARK CENTRAL STE 455
DALLAS TX 75251

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APR 2 3 2003

OFFICE OF PETITIONS

In re Application of :
Kathleen Shupe and Billy C. Coats :
Application No. 10/326,797 : DECISION ACCORDING STATUS
Filed: December 21, 2002 : UNDER 37 C.F.R. 1.47(a)
Attorney Docket No. COTS:1015 :
Title: ANTIMICROBIAL AGENTS :
ISOLATED FROM ALOE VERA :

The above-identified application was filed on December 21, 2002, as a division of parent application no. 09/789,179, which was a division of no. 09/262,731[1]. A fully executed oath or declaration was not submitted. However, parent application no. 09/262,731 was accorded Rule 1.47(a) status in a decision mailed on May 14, 2001. Applicant submitted a copy of that decision in a facsimile transmission on April 21, 2003.

Accordingly, the above-identified application is hereby **accorded Rule 1.47(a) status.**[2]

Given the basis for according Rule 1.47(a) status, no petition was required, and therefore no fee has been charged.

The above-identified application is being forwarded to Technology Center 1600, Group Art Unit 1651, for docketing.

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

Cliff Congo
Petitions Attorney
Office of Petitions

[1] The parent application issued as Patent 6,290,984 on September 18, 2001.

[2] See MPEP 201.06(c), at 200-38, 200-39.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHARLES N. QUINN
FOX ROTHSCHILD LLP
2000 MARKET STREET, 10TH FLOOR
PHILADELPHIA, PA 19103

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MAY 22 2006

OFFICE OF PETITIONS

In re Application of :
Michael S. Woods :
Application No. 10/326,854 : DECISION ON PETITION
Filed: December 20, 2002 : TO MAKE SPECIAL UNDER
Attorney Docket No. 98132.00101 : 37 CFR 1.102(d)
:

This is a decision on the petition under 37 CFR §1.102(d), filed January 3, 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 petitioner does not meet the above-listed requirements set forth in MPEP § 708.02, II; therefore, the petition is dismissed.

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

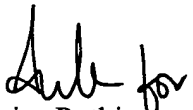
By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

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

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3629 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
WASHINGTON, D.C. 20231
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DRW 03-03

Paper No. 5

WILLIAM B. RITCHIE
RITCHIE LAW OFFICES
43 JACKSON STREET
CONCORD NH 03301

COPY MAILED

MAR 1 1 2003

OFFICE OF PETITIONS

In re Application of	:	
Denner et al.	:	
Application No. 10/326,872	:	DECISION GRANTING PETITION
Filed: 26 September, 2002	:	
Att'y Docket No. 4321-005	:	

This is a decision on the petition styled under 37 CFR 1.182 filed on 4 February, 2003, which is treated as a petition under 37 CFR 1.53 requesting that the above-identified application be accorded a filing date of 26 September, 2002, with five (5) sheets of drawings as a part of the original disclosure.

On 26 September, 2002, the application was filed.

On 29 January, 2003, Initial Patent Examination Division mailed a "Notice of Incomplete Application" stating that the application had not been accorded a filing date because the application was deposited without drawings and that the filing date of the application would be the date of receipt of the drawings. An oath or declaration and the statutory basic filing fee was also required.

In response, on 4 February, 2003, the present petition, a $130.00 petition fee, and, *inter alia*, five (5) sheets of drawings were filed. Petitioners argue that five (5) sheets of drawings were filed with the other application papers on 26 September, 2002, and that the drawings were misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt which shows an Office-date stamp of 26 September, 2002, and acknowledges receipt of, *inter alia*, 5 sheets of drawings was supplied with the present petition. The postcard receipt identifies the application by attorney docket number and contains the same Express Mail number found on the itemized application transmittal sheet. Petitioners requests

that the application, including five (5) sheets of drawings, be accorded a filing date of 26 September, 2002.

Upon review of the record, no sheets of drawings deposited on 26 September, 2002, have been located among the application papers. However, the evidence is convincing that the application papers deposited on 26 September, 2002, included five (5) sheets of drawings, which were subsequently misplaced in the USPTO. Therefore, the application, including five (5) sheets of drawings, was complete on filing and entitled to a filing date of 26 September, 2002.

In view of the above, the petition is granted. The five (5) sheets of drawings submitted with the petition will be used for processing and examination purposes. The petition fee is unnecessary and petitioners may request a refund thereof by writing to the Office of Finance, ATTN: Refund Section. A copy of this decision should accompany petitioners' request.

The "Notice" mailed on 29 January, 2003, is vacated to the extent that it stated that the application had been deposited without drawings.

Receipt of the declaration and filing fee is acknowledged.

The application is being returned to Initial Patent Examination Division for processing with a filing date of 26 September, 2002, using the application papers filed on that date, and the five (5) sheets of drawings supplied on 4 February, 2003, and for an indication on the bib-data sheet that five (5) sheets of drawings were present on filing.

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

OIPE
APR 20 2005
PATENT & TRADEMARK OFFICE

07-22-05

1636

PTO/SB/83 (09-04)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS		
	Application Number	10/326,892
	Filing Date	December 20, 2002
	First Named Inventor	Costas Karatzas
	Art Unit	1636
	Examiner Name	Q. Nguyen
	Attorney Docket Number	04214/100M196-US1

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

APPROVED
WILLIAM R. DIXON, JR.
SPECIAL PROGRAM EXAMINER
5/19/05

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
- [x] the attorneys/agents associated with Customer Number 07278

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 has discharged the firm and request transfer of the file.

EXPRESS MAIL CERTIFICATE EV 447562194 US
Date 4/20/05 Label No.
I hereby certify that, on the date indicated above, this paper or fee was deposited with the U.S. Postal Service & that it was addressed for delivery to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 by "Express Mail Post Office to Addressee" service.
A. Stanitsi A. Stanitsi
Name (Print) Signature

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	Elliot M. Olstein				
Address	Carella, Byrne, Bain, Gilfillan, Cecchi, Stewart & Olstein 5 Becker Farm Road, 2nd Floor				
City	Roseland	State	NJ	Zip	07068
Country	US				
Telephone		Fax			
Signature	Van Nguyen				
Name	Van H. Nguyen	Registration No.	56,571		
Date	April 20, 2005	Telephone No.	(212) 527-7700		

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.

s

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

NIXON & VANDERHYE, PC
1100 N GLEBE ROAD
8TH FLOOR
ARLINGTON, VA 22201-4714

COPY MAILED

JUL 14 2003

OFFICE OF PETITIONS

In re Application of:
Christopher Jones,
Andrew Bacon, Gill Douce and
Mark Page
Application No. 10/326,908
Filed: December 23, 2002
Title of Invention: DESIGNING IMMUNOGENS

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to a petition under 37 CFR 1.47(a), filed May 12, 2002, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on December 23, 2002, without a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), on March 12, 2003, requiring inter alia, a properly signed oath or declaration.

In response to the Notice, Petitioner files the instant wherein Petitioner avers that the declaration and assignment documents were forwarded to the nonsigning inventor, who has yet to return the documents.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) as set forth above.

Applicant lacks items (1) set forth above.

As to item (1), where it is alleged that an applicant refuses to join an application, the applicant must establish that the

nonsigning inventor was presented with the application for signature. The Manual of Patent Examining Procedure ("MPEP") states that

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to *the last known address of the nonsigning inventor*, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. Emphasis supplied.

MPEP 409.03(d).

Accordingly, where it is alleged that an inventor refuses to join an application, the MPEP requires that a copy of the application is sent to the last known address of the nonsigning inventor(s). The last known address should be the last known residence at which the inventor customarily receives mail. See, MPEP 409.03(e) and 605.03.

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

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

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

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

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

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

NIXON & VANDERHYE, PC
1100 N GLEBE ROAD
8TH FLOOR
ARLINGTON, VA 22201-4714

COPY MAILED

NOV 25 2003

OFFICE OF PETITIONS

In re Application of:
Christopher Jones,
Andrew Bacon, Gill Douce and
Mark Page
Application No. 10/326,908
Filed: December 23, 2002
Title of Invention: DESIGNING IMMUNOGENS

DECISION GRANTING
STATUS
UNDER 37 CFR 1.47(a)

This is in response to a Request for Reconsideration of Petition under 37 CFR 1.47(a), filed October 6, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Andrew Bacon, 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 address given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GENERAL ELECTRIC COMPANY
CRD PATENT DOCKET RM 4A59
P O BOX 8, BLDG. K-1
SCHENECTADY, NY 12301

COPY MAILED

JUL 16 2004

OFFICE OF PETITIONS

In re Application of
Patrick Joseph McCloskey et al
Application No. 10/326,933
Filed: December 23, 2002
Attorney Docket No. RD-28473-5

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed July 14, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 21, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 1711 for processing of the request for continued examination under 37 CFR 1.114, filed July 15, 2004, and for consideration of the Information Disclosure Statement, filed July 14, 2004.

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
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MAILED

NOV 17 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Robert J. Van Der Wall
Wachovia Financial Center
Suite 5100
200 South Biscayne Boulevard
Miami, FL 33131-2340

Paper No. 4

In re application of : **DECISION ON PETITION**
Jorge Coloma : **TO MAKE SPECIAL**
Application No.10/326,937 : **(INFRINGEMENT)**
Filed: December 23, 2002
For: CERTIFICATE OF DEPOSITE PORTFOLIO SYSTEM AND METHOD

This is a decision on the petition under 37 C.F.R § 1.102(d) filed August 14, 2003 to make the above-identified application special. The delay in deciding this petition is regretted.

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

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

The petition filed August 14, 2003 completes 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.

SUMMARY: Petition To Make Special is **GRANTED.**

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866
KJD/cps/10/20/03

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JJGJR.: 01-054

Paper No: __

ROBERT J. VAN DER WALL
COLONIAL BANK CENTRE
STE 1620
1200 BRICKELL AVENUE
MIAMI FL 33131

COPY MAILED

JAN 27 2005

OFFICE OF PETITIONS

In re Application of
Coloma :
Application No. 10/326,937 : ON PETITION
Filed: 23 December, 2002 :
Attorney Docket No. 10/14-1 (1014-6) :

This is a decision on the petition under ¶(b) of 37 C.F.R. §1.47, filed on 18 October, 2004.

The petition is **DISMISSED**.

NOTE: Any petition (and fee) for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(b)" and may include an oath or declaration executed by the inventors.

Thereafter there will be no further reconsideration. Failure to respond will result in abandonment of the application.

BACKGROUND

There is confusion in the record, and the instant petition, unnumbered as it is, may not properly be lodged in this file. However, in order that the issue might not be ignored and so lost, it is addressed herein. (Telephone calls were placed to counsel on 26 and 27 January, 2005, however, as of this writing there has been no response to those calls.)

The record indicates:

- this application was filed on 23 December, 2002, and it appears that a signed oath/declaration was included in that filing;
- the application continued through prosecution to final Office action on 20 April, 2004, and, apparently, a Notice of Appeal was filed (with a request and fee for extension of time) on 23 August, 2004;
- Petitioner alleges that the Appeal Brief was due on or before 19 October, 2004, however, under 37 C.F.R. §1.192, because the due date for the brief is two months from the date of the filing of the Notice of Appeal (23 August, 2004), the due date of the brief was Monday, 25 August, 2004;
- Petitioner indicates that applicant has chosen to file a continuation-in-part (CIP), rather than go forward on the appeal, and now finds that the named inventor, Jorge H. Coloma (Mr. Coloma) will not sign the new oath/declaration required in a continuation-in-part (see: MPEP 201.06(c)(II));
- however, Petitioner has failed to satisfy the requirements of 37 C.F.R. §1.47(b).

ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

> **§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**
>
> * * *
>
> (b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63
>
> * * *

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

§1.63 Oath or declaration.

(b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:

(1)Identify the application to which it is directed;

(2) State that the person making the oath or declaration has reviewed and understands the contents of the application, Including the claims, as amended by any amendment specifically referred to in the oath or declaration; and

(3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application--and evidence of that transmittal submitted (a reasonable effort must be made to ascertain a current or last known address)–but also the petition must state over the signature and registration number of the Petitioner the last known address (and, if appropriate, evidence of the due diligence effort ascertaining same).

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[1]

CONCLUSION

Therefore, the instant petition must be and hereby is **dismissed**.

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

[1] See: MPEP 409.03(b).

By mail: Commissioner for Patents[2]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306 (IFW Formal Filings)
ATTN.: Office of Petitions

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

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

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

[2] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 06-05

Paper No: __

ROBERT J. VAN DER WALL
COLONIAL BANK CENTRE
STE 1620
1200 BRICKELL AVENUE
MIAMI FL 33131

COPY MAILED

JUN 2 8 2005

OFFICE OF PETITIONS

In re Application of
Coloma :
Application No. 10/326,937 : ON PETITION
Filed: 23 December, 2002 :
Attorney Docket No. 10/14-1 (1014-6) :

This is a decision on the petition under ¶(b) of 37 C.F.R. §1.47, filed on 131 March, 2005.

The petition is **DISMISSED**.

BACKGROUND

At the filing of the original petition confusion existed in the instant record that the original petition, unnumbered as it was, was not properly be lodged in this file. Nonetheless, in order that the matter might not be ignored and so lost, it was addressed.

The record indicates:

- this application was filed on 23 December, 2002, and it appears that a signed oath/declaration was included in that filing;

- the application continued through prosecution to final Office action on 20 April, 2004, and, apparently, a Notice of Appeal was filed (with a request and fee for extension of time) on 23 August, 2004 (Petitioner alleged that the Appeal Brief was due on or before 19 October, 2004, however, under 37 C.F.R. §1.192, because the due date for the brief is two months

from the date of the filing of the Notice of Appeal (23 August, 2004), the due date of the brief was Monday, 25 August, 2004; moreover, Petitioner indicated that applicant chose to file a continuation-in-part (CIP), rather than go forward on the appeal, and found that the named inventor, Jorge H. Coloma (Mr. Coloma) was unavailable to will not sign the new oath/declaration required in a continuation-in-part (see: MPEP 201.06(c)(II));

- however, Petitioner has failed to satisfy the requirements of 37 C.F.R. §1.47(b), and was dismissed on 27 January, 2005;

- the instant petition resolves the questions presented, and the petition is properly lodged in the continuation-in-part (CIP), filed and bearing, according to the attachments supplied by Petitioner, the Application No. 10/967,513. Moreover, Petitioner avers that the inventor has joined in the application and supplied a signed oath/declaration.

CONCLUSION

The instant petition is **dismissed as moot**.

The instant application is released to Technology Center 3600.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 9, 2008

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No 10/326981patent no7174150

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: ok to enter

/Matthew Anderson/ — **SPE**

2618 — **Art Unit**

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

SEARETE LLC
CLARENCE T. TEGREENE
1756 - 114TH AVE., S.E.
SUITE 110
BELLEVUE, WA 98004

Mail Date: 04/21/2010

Applicant	: W. Daniel Hillis	: DECISION ON REQUEST FOR
Patent Number	: 7587613	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/327,015	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/20/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1039** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

MIKA MAYER
MORRISON & FOERSTER
755 PAGE MILL ROAD
PALO ALTO, CA 94304-1018

COPY MAILED

NOV 18 2003

OFFICE OF PETITIONS

In re Application of :
Vernon Wong et al :
Application No. 10/327,018 : NOTICE
Filed: December 20, 2002 :
Attorney Docket No. 440882001202 :

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 1617.

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

THOMTE, MAZOUR & NIEBERGALL, L.L.C.
2120 S. 72ND STREET, SUITE 1111
OMAHA, NE 68124

COPY MAILED

AUG 2 4 2004

OFFICE OF PETITIONS

In re Application of :
Gatzemeyer, Dwight :
Application No. 10/327,032 : ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. Method And Apparatus :
For Edge Locating And Angle Setting

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 9, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed January 22, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on April 23, 2004. A Notice of Abandonment was mailed on July 29, 2004.

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

This matter is now being referred to Technology Center 2800 for further examination on the merits.

Telephone inquiries should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after September 28, 2004 should be directed to the undersigned at (571) 272-3206.

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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www.uspto.gov

JUN 2 8 2005

51205

Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington, DC 20005-3315

In re Application of:
LEE *et al.*
Serial No.: 10/327,043
Filed: December 24, 2002
U.S. Patent No. 6,849,529
Issued: February 01, 2005
Attorney Docket No. 07942.0025

DECISION RETURNING
PRIOR ART CITED UNDER
35 U.S.C. § 301

The prior art citation under 35 U.S.C. § 301 and 37 C.F.R. § 1.501, filed by the patent owner on April 11, 2005, is before the Group Director of Examining Group 2800 for consideration.

STATUTES, REGULATIONS AND PRACTICE

35 U.S.C. § 301 reads as follows:

> 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. (Emphasis added.)

37 C.F.R. § 1.501 reads, in pertinent part:

> (a) At any time during the period of enforceability of a patent, any person may cite to the Patent and Trademark Office in writing prior art consisting of patents or printed publications which that person states to be pertinent and applicable to the patent and believes to have a bearing on the patentability of any claim of a particular patent. If the citation is made by the patent owner, the explanation of

> pertinency and applicability may include an explanation of how the claims differ from the prior art. (Emphasis added.)

Section 2205 of the Manual for Patent Examining Procedure (M.P.E.P.) reads, in pertinent 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."
>
> An explanation is required of how the person submitting the prior art considers it to be pertinent and applicable to the patent, as well as an explanation of why it is believed that the prior art has a bearing on the patentability of any claim of the patent. Citations of prior art by patent owners may also include an explanation of how the claims of the patent differ from the prior art cited. . . .
>
> A prior art citation is limited to the citation of patents and printed publications and an explanation of the pertinency and applicability of the patents and printed publications. This may include an explanation by the patent owner as to how the claims differ from the prior art. (Emphasis added.)

Section 2206, II, B of the M.P.E.P. reads in pertinent part:

> If an improper prior art citation under 37 C.F.R. 1.501 is filed by the patent owner prior to an order for reexamination, it should not be entered in the file. The patent owner should be notified of the nonentry, and the citation papers should be returned to the patent owner along with the notification.

DECISION

The citation of prior art lacks an explanation of the pertinency and the manner of applying the cited prior art to at least one claim of the patent. Accordingly, the citation of prior art filed April 11, 2005 does not meet the requirements for entry into the patent file. The citation is being returned to the patent owner pursuant to M.P.E.P. § 2206, II, B.

This decision is made of record in the patent file.

Jamie A. Falcone
for James Dwyer, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

Enclosure: Citation of prior art filed May 5, 2005

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SUGHRUE MION PLLC
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WASHINGTON, DC 20037

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In re Application of :
Lynda A. Hansen, et al. :
Application No.: 10/327,059 : ON PETITION
Filed: December 24, 2002 :
Attorney Docket No.: SVL9200200097US1/A8529 :

This is a decision on the petition, filed March 3, 2010, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 16, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 2164 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

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

In re Application of :
Takehiko Toyoka et al :
Application No. 10/327,104 : ON PETITION
Filed: December 24, 2002 :
Attorney Docket No. 232265US2SRD :

This is a decision on the petition, filed June 26, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on March 2, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2618 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE :

TO SPE OF : ART UNIT 3738

SUBJECT : Request for Certificate of Correction on Patent No.: 7,004,970

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - 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: Corrine McDermott — 3738 Art Unit

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JAY L. CHASKIN
CANTOR COLBURN LLP
55 GRIFFIN ROAD
BLOOMFIELD, CT 06828

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OFFICE OF PETITIONS

In re Application of :
Pascal Lumbroso et al :
Application No. 10/327,155 : ON PETITION
Filed: December 23, 2002 :
Attorney Docket No. 14XZ00125

This is a decision on the petition, filed December 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 November 8, 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 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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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL (AMD)
P.O. BOX 398
AUSTIN TX 78767-0398

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OFFICE OF PETITIONS

In re Application of :
Sebastian Ehrenreich et al. :
Application No. 10/327,170 : DECISION ON PETITION
Filed: December 20, 2002 : UNDER 37 C.F.R. §1.181
Attorney Docket No. 5500-93201 :
Title: AUTOMATIC POWER LEVEL :
CONTROL CIRCUIT FOR A :
TRANSCEIVER DEVICE :

This is a decision on the petition filed on December 18, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R §1.113 in a timely manner to the final Office action mailed April 6, 2006, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R §1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 7, 2006. A notice of abandonment was mailed on November 21, 2006.

With the present petition, Petitioner has alleged that the mailing was not received. 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. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement[1].

1 See MPEP 711.03(c).

Petitioner has met the requirements of Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971), in that he has asserted that the Office communication was not received, that he has searched both the file jacket and the docket record, and he has included a copy of the latter.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the mailing was not received.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the communication of April 6, 2006, and will set a new period for response.

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).

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2033 K STREET N.W.
SUITE 800
WASHINGTON DC 20006-1021

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Tsutomu Yoshida et al :
Application No. 10/327,180 :
Filed: December 24, 2002 :
Attorney Docket No. 2002-1639A :

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

The petition is **GRANTED**.

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

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

It is noted that applicant paid the issue fee of $1,370.00 on December 8, 2004. However, a new fee schedule went into effect on December 8, 2004. The issue fee payment as of December 8, 2004 is $1400. Therefore, a total of $30 is being charged to deposit account no. 23-0975 as authorized.

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

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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).

The examiner of Technology Center AU 1621 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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OFFICE OF PETITIONS

In re Patent No. 6,947,215	:	
Hikaru Hoshi	:	DECISION ON REQUEST
Issue Date: 20 September, 2005	:	FOR RECONSIDERATION OF
Application No. 10/327,182	:	PATENT TERM ADJUSTMENT
Filed: 24 December, 2002	:	and
For: OPTICAL ELEMENT, OPTICAL FUNCTIONAL DEVICE, POLARIZATION CONVERSION DEVICE, IMAGE DISPLAY APPARATUS, AND IMAGE DISPLAY SYSTEM	:	NOTICE OF INTENT TO ISSUE CERTIFICE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT (UNDER 37 C.F.R. § 1.705(d)" filed 14 November, 2005. Patentee requests that the Patent Term Adjustment for the above-identified patent be set at 96 days.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of ninety-six (96) days.

On 20 September, 2005, the above-identified application matured into U.S. Patent No. 6,947,215. The instant request for reconsideration filed 14 November, 2005, was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 0 days. This revised determination was calculated as follows: The initial determination of PTA of 96 days was reduced by 111 days for then applicants filing of a "miscellaneous incoming letter" on 2 June, 2005, filed after the mailing of a notice of allowance on 26 April, 2005.

Patentee contends that there should have been no reduction for the filing, after the mailing of the notice of allowance, of the letter filed on 2 June, 2005. Patentee contends that this paper is an example of submissions after a Notice of Allowance that are not considered a failure to engage in reasonable efforts to conclude processing or examination of an application, in accordance with the "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 OG 111 (June 27, 2001).

Patentees' contention is not well taken. The OG Notice states that:

> Accordingly, the Office is publishing this notice to provide guidance in interpreting the provisions of 37 CFR 1.704(c)(10) to clarify that submission of certain papers after a "Notice of Allowance," which do not cause substantial interference and delay in the patent issue process, are not considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application. The following are examples of such papers: (1) Issue Fee Transmittal (PTOL-85B), (2) Power of Attorney, (3) Power to Inspect, (4) Change of Address, (5) Change of Status (small/not small entity status), (6) a response to the examiner's reasons for allowance, and (7) letters related to government interests (e.g., those between NASA and the Office). Therefore, the submission of these papers after a Notice of Allowance will not be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and would not result in reduction of a patent term adjustment pursuant to 37 CFR 1.704(c)(10).

Petitioner states that the letter filed on 2 June, 2005, was made in response to the Examiner's Interview Summary mailed on 26 April, 2005, concurrent with the Notice of Allowance. Petitioner asserts that since the Examiner's Interview Summary did not state that it was not necessary for the applicant to provide a separate record of the substance of the interview, patentee's properly filed the letter filed on 2 June, 2005.

An Interview Summary is not among those examples. Example (6) refers to a Comment on the Examiner's Reasons for Allowance.

Nonetheless, it is concluded that under the circumstances that the letter filed on 2 June, 2005, should not be considered "a

failure to engage in reasonable efforts" to conclude processing or examination of an application and should not result in reduction of the patent term adjustment pursuant to 37 CFR 1.704(c)(10). Thus, it is concluded that the reduction of 111 days are not warranted.

In view thereof, the patent term adjustment indicated on the patent should be ninety-six (96) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by NINETY-SIX (96) days.

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,947,215 B2

DATED : September 20, 2005

INVENTOR(S) : Hikaru Hoshi

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 (101) days

Delete the phrase "by 0 days" and insert – by 96 days--

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MAGINOT, MOORE & BECK, LLP
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SUITE 3250
INDIANAPOLIS, IN 46204

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OFFICE OF PETITIONS

In re Application of :
Kimberly A. Dwyer, et. al. :
Application No. 10/327,187 : ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. DEP0644 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 22, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed February 23, 2007. A Notice of Abandonment was mailed on August 29, 2007.

It is not apparent whether 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 James D. Wood appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3733 for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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JUN 14 2004

OFFICE OF PETITIONS

PENNIE & EDMONDS LLP
1667 K Street, N.W.
Washington DC 20006

Applicant: Dugger
Appl. No.: 10/327,195
Filing Date: December 24, 2002
Title: BUCCAL, POLAR AND NON-POLAR SPRAY OR CAPSULE
Attorney Docket No.: 11122-026-999
Pub. No.: US 2003/0211047 A1
Pub. Date: November May 13, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on February 26, 2004.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains an on the front page of the publication as it lists "Idena S.p.A", not "NovaDel Pharma Inc.", as listed on the Corrected Filing Receipt mailed on May 6, 2003.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." **A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.**[1]

The request for corrected publication received on February 26, 2004, was not timely filed under 37 CFR 1.221(b).

If the corrected publication request was timely filed, the error in the assignee information on the first page of the publication would not have been considered a material error, as required by 37 CFR 1.221(b). The error does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

---

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

On March 26, 2003, Applicant requested a Corrected Filing Receipt to change the assignee information from "Idena S.p.A" to "NovaDel Pharma Inc." and a Corrected Filing Receipt mailed on May 6, 2003, however the information was changed too late in the publication process to be used in printing the publication.

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

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

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

The application will be examined in due course.

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

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

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IMMUNEX CORPORATION
LAW DEPARTMENT
51 UNIVERSITY ST.
SEATTLE, WA 98101

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OFFICE OF PETITIONS

In re Application of :
Sims, et al. :
Application No. 10/327,215 : DECISION ON PETITION
Filed: 2 December, 2002 :
Attorney Docket No. 3096-C :

This is a decision on the petition filed on 12 May, 2002, under 37 C.F.R. §1.53(b); and seeking to having accorded a filing date of 2 December, 2002, to page 26 of the application, which the Office deemed omitted at the time of filing.

For the reasons set forth below, the petition under 37 C.F.R. §1.53(b) is **DISMISSED**.

This application was deposited on 2 December, 2002, however on 7 March, 2003, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application (Filed Under 37 C.F.R. §1.53," with a statement that "a filing date has been accorded" to the application. However, it appeared that "Page(s) 26 of the specification (description and claims)" appeared to have been omitted from the application.

In response, the instant petition under 37 C.F.R. §1.53 was filed on 12 May , 2003.

In the transmittal of the instant application, Petitioner contends that this application is a continuation of Application "No. 09/854,162, filed May 11, 2001, which claims the benefit of provisional application serial number 60/203,881, filed May 12, 2000[,] and provisional application number 60/222,422 filed August 1, 2000.

Petitioner does not raise this argument, however, and argues only that a date-stamped receipt card, a copy of which is submitted (along with a copy of what purports to be page 26 of the specification (description and claims) indicates that 29 pages of specification, claims and abstract, was acknowledged as received by the Office.

And, in fact, the Office did acknowledge receipt of 29 pages of specification, claims and abstract.

Analysis

A search of the official file reveals that on 20 December, 2002, Applicants filed, inter alia, 29 pages of specification (description and claims), to wit: pages 1 - 7, a second copy of page 7, pages 8-25, and pages 27-29.

There is no page 26 .

Accordingly, the "Notice of Omitted Item(s)" mailed on 7 March, 2003, was correct in stating that page 26 of the specification (description and claims) had been omitted. Therefore, the "Notice of Omitted Item(s) was properly mailed and will not be withdrawn.

Accordingly, the petition is **dismissed**.

Because the 12 May, 2003, petition was not due to an error on the part of the Office, the petition fee authorized has been charged and will not be refunded.

Petitioner asserts, and it is noted, that the "Patent Application Transmittal" letter states that the application is a continuation of prior Application "No. 09/854,162, filed May 11, 2001,"and pending as of the filing of the instant application), and that "[t]he entire disclosure of the prior application . . . is hereby incorporated . . . by reference . . . ."

This incorporation may be proper in practice before the Office. (See: MPEP §201.06(c) (in pertinent part).) And, in view of the incorporation by reference, of the prior application, the drawing Fig. 4 is not new matter if it was part of the disclosure of the prior application.

The application is being returned to OIPE for further processing with a filing date of 20 December 2002, including an indication in Office records that 46 pages of description (pages 1-25 and 27-29) were present on filing.

Further, in the interest of time, Petitioner might wish to file immediately a copy of the claimed parent Application No. 09/854,162, as filed, as an amendment requesting entry of page 26.

Thereafter, the application will be forwarded to Technology Center 1600 for consideration by the Examiner of the instant petition and copy of the parent, as an amendment requesting entry of page 26.

Telephone inquiries concerning this decision may be directed to the undersigned at (703)305-9199.

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

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THOUSAND OAKS, CA 91320-1799

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OFFICE OF PETITIONS

In re Application of :
Sims, et al. :
Application No. 10/327,215 : DECISION ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. 3096-C :

This is a decision on the petition under 37 CFR 1.137(b), filed June 26, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a timely and proper reply to the final Office action mailed December 22, 2005, which set a three (3) month shortened statutory period for reply. No response was received within the allowable period, and the application became abandoned on March 23, 2006. A Notice of Abandonment was mailed on June 29, 2006.

Examiner Cherie Woodward determined that the amendment filed June 26, 2006, fails to place the application in condition for allowance because the amendment fails to amend the claims and the arguments presented are insufficient to overcome the 103 rejections pending in the final Office action.

The Notice of Appeal, filed June 26, 2006, has been entered and made of record. Accordingly, the two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 1.17(c)) runs from the date of this decision.

The application file is being forwarded to Technology Center 1600, GAU 1647 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Tomitaka Takagi, et al. :
Application No. 10/327,218 : ON PETITION
Filed: December 23, 2002 :
Attorney Docket No.: 13630-014001 :
:

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 19, 2005, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2861 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : December 5, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Tomitaka Takagi, et al.
Application No. : 10/327,218
Filed : December 23, 2002

The above-identified application has been assigned Patent No. 6,972,785 and an issue date of December 6, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of December 6, 2005:

"All reference to Patent No. 6,972,785 to TOMITAKA TAKAGI, ET AL. JAPAN for APPARATUS WITH OFFSET LIGHT SOURCE FOR FORMING IMAGES ON PHOTOSENSITIVE SURFACE appearing in the Official Gazette of December 6, 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

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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SMITH MOORE LLP
P.O. BOX 21927
GREENSBORO, NJ 27420

COPY MAILED

AUG 1 6 2004

OFFICE OF PETITIONS

In re Application of :
Bucker, Heinz :
Application No. 10/327,238 : DECISION ON PETITIONS
Filed: December 20, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 05004273.003US1 : AND UNDER 37 CFR 1.55(C)

This is a decision on the petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed June 30, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of a prior-filed PCT application; and under 35 U.S.C. § 119(a)-(d) for the benefit of a prior-filed foreign application, as set forth in the concurrently filed amendment. This is also a decision on the petition under 37 CFR 1.182 for expedited consideration of the above-noted petition.

The petitions are **GRANTED**.

As to the benefit claim under 37 CFR 1.78(a)(3):

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

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

The instant pending application was filed on December 20, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed 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 and 365(c). 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 365(c) to the prior-filed applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date;
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The above-identified pending nonprovisional application was filed on December 20, 2002, which is after November 29, 2000, and the intermediate PCT application was filed within 12 months of June 21, 2000, which is the earliest filing date of the foreign application to which benefit is claimed. The declaration filed on February 12, 2003 also identifies the foreign application for which priority is claimed.

A certified copy of the foreign patent document was submitted on December 20, 2002. Pursuant to petitioner's authorization, the $1330.00 surcharge and the $130.00 petition fee were charged to petitioner's deposit account. Lastly, petitioner has provided an adequate statement of unintentional delay.

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

A corrected Filing Receipt, which includes the priority claim to the prior-filed PCT and foreign applications, accompanies this decision on petition.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) should not be construed as meaning that 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, 365(c) and 119(a)-(d) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

Any inquiries concerning this decision may be directed to Paralegal Liana Chase at (703) 306-0482. Any inquiries after approximately September 24, 2004, should be directed to (571) 272-3206.

This application is being forwarded to Technology Center Art Unit 3677 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed PCT application and for consideration of the claim for priority under 35 U.S.C. § 119 for the benefit of the foreign application as set forth in the concurrently filed amendment.

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

ATTACHMENT: Corrected Filing Receipt

SPE J. Swann

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/327,238

Paper No.: _____

DATE : 6/7/05

TO SPE OF : ART UNIT 3677

SUBJECT : Request for Certificate of Correction on Patent No.: 6860227

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

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

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

Lamonte Newsome
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:

[signature] 3643
SPE **Art Unit**

MICHAEL J. CARONE
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MAY 23 2006

OFFICE OF PETITIONS

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

In re Application of :
Phillip E. Byrd :
Application No. 10/327,246 : ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. 4715.2US (00-1057.2) :

This is a decision on the petition, filed May 12, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

The examiner of Technology Center AU 2829 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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JAN 12 2006

OFFICE OF PETITIONS

In re Application of	:	
James M. Powers	:	
Application No. 10/327,251	:	ON PETITION
Filed: December 20, 2002	:	
Attorney Docket No. 42P14704	:	

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 above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 24, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 25, 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 2851 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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Paper No. 6

Christine Johnson, Esq.
c/o McCarter & English, LLP
Mellon Bank Center
1735 Market Street, Suite 700
Philadelphia, PA 19103

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AUG 0 6 2003

OFFICE OF PETITIONS

In re Application of :
Abend :
Application No. 10/327,265 : DECISION ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. 93184/2 :

This is a decision on the petition filed June 9, 2003, requesting, in effect, that page 69 of the specification filed on June 9, 2003, be entered as part of the original disclosure.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The application was filed on December 20, 2002. On April 9, 2003, the Office of Initial Patent Examination mailed a Notice stating in part that the application had been accorded a filing date of December 20, 2002, and advising applicants that page 69 of the specification appeared to have been omitted.

In response, the present petition was filed. Petitioner alleges page 69 was filed with the original application.

All the evidence present in the file has been carefully considered, but is not persuasive that page 69 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 page 69 was filed on December 20, 2002, the file of application No. 10/327,265[1] shows that page 69 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 case, the copy of the transmittal sheet filed with the original application does not have more probative value than the official government record of what was actual received in the USPTO on December 20, 2002.

The transmittal sheet only demonstrates an intent to file 100 pages of specification and a belief that 100 pages would be filed. The transmittal sheet does not prove all 100 pages were 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.

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).

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

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

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

By hand:
Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Since applicants have not filed a petition under 37 CFR 1.182 requesting June 9, 2003, the date the missing page was filed, as the filing date, page 69 filed on June 9, 2003, will not be entered.

An amendment to the specification deleting references to the missing page 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 a page which was 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).

If a request of reconsideration, or petition under 37 CFR 1.182, is not filed within two months, the file will be returned to the Office of Initial Patent Examination for further processing with a

[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.

filing date of December 20, 2002, using the corrected drawings filed on June 9, 2003, and the application papers filed on December 20, 2002.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Allen Friedman
McCarter & English, LLP
Four Gateway Center
100 Mulberry Street
Newark, NJ 07102

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OFFICE OF PETITIONS

In re Application of :
Abend :
Application No. 10/327,265 : DECISION ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. 93184/2 :

This is a decision on the renewed petition filed October 3, 2003, requesting, in effect, that page 69 of the specification filed on June 9, 2003, be entered as part of the original disclosure.

The petition is **dismissed**.

The application was filed on December 20, 2002. On April 9, 2003, the Office of Initial Patent Examination mailed a Notice stating in part that the application had been accorded a filing date of December 20, 2002, and advising applicants that page 69 of the specification appeared to have been omitted.

Petitioner alleges page 69 was filed with the original application.

All the evidence present in the file has been carefully considered, but is not persuasive that page 69 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 . . . .

MPEP 503 states (emphasis added),

> The identifying data on the postcard should include:
> (A) applicant's name(s);
> (B) title of invention;
> (C) **number of pages of specification, claims (for nonprovisional applications), and sheets of drawing**;
> (D) whether oath or declaration is included;
> (E) a list of any additional forms included with the application (e.g., application transmittal form, application data sheet, fee transmittal form, and /or provisional application cover sheet); and
> (F) amount and manner of paying the fee.

A return postcard should be attached to each patent application for which a receipt is desired.

It is important that the return postcard itemize all of the components of the application. **If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO).** . . .

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

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. **The postcard should also identify the type of paper being filed**, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., **and the number of pages being submitted.** If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., **the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).**

The postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as prima facie evidence of receipt of those items.

Petitioner has submitted a non-itemized postcard receipt listing "Patent Application" and "Cover Sheet." When the Office received the application and postcard, an employee reviewed the postcard and verified that each item listed was present. In fact, the file contains both a patent application and cover sheet. The employee did not read the contents of the cover sheet and verify that each item listed was present. Therefore, the postcard receipt and cover sheet do not prove that all 100 pages of specification were filed with the original application.

For the above reasons, and the reasons stated in the previous dismissal, the instant petition cannot be granted.

Since applicants have not filed a petition under 37 CFR 1.182 requesting June 9, 2003, the date the missing page was filed, as the filing date, page 69 filed on June 9, 2003, will not be entered.

An amendment to the specification deleting references to the missing page 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 a page which was 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 file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

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

By facsimile: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

If a petition under 37 CFR 1.182 is not filed within two months, the file will be returned to the Office of Initial Patent Examination for further processing with a filing date of December 20, 2002, using the corrected drawings filed on June 9, 2003, and the application papers filed on December 20, 2002.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

RALPH W. SELITTO, JR.
C/O MCCARTER & ENGLISH, LLP
GATEWAY CENTER FOUR
100 MULBERRY STREET
NEWARK, NJ 07102

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OFFICE OF PETITIONS

In re Application of	:	
Abend	:	
Application No. 10/327,265	:	Letter
Filed: December 20, 2002	:	
Attorney Docket No. 93184/2	:	

This is a letter in response to the papers filed April 5, 2004.

The Associate Power of Attorney and Change of Correspondence Address have been entered and made of record.

The Office acknowledges petitioner's intent not to file a request for reconsideration or petition under 37 CFR 1.182.

The file will be returned to the Office of Initial Patent Examination for further processing with a filing date of December 20, 2002, using the corrected drawings filed on June 9, 2003, and the application papers filed on December 20, 2002.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJr: 05-03

Paper No: 6

FROMMER LAWRENCE
& HAUG LLP
10TH FLOOR
745 FIFTH AVENUE
NEW YORK NY 10151

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JUN 19 2003

OFFICE OF PETITIONS

In re Application of
Ishida, et al.
Application No. 10/327,266
Filed: 20 December, 2002
Attorney Docket No. 450101-02857.1

ON PETITION

This is a decision on the petition filed on 14 April and supplemented on 13 May, 2003, styled as a "Petition in Response to the Notice of Omitted Item(s) in a Nonprovisional Application," and considered under 37 C.F.R. §1.53 and thus treated as a petition requesting that the above-identified application be amended to include Figure 4 of the drawings, admitted to have been omitted from the application at filing of the specification (description and claims).

For the reasons set forth below, the petition under 37 C.F.R. §1.53 is **DISMISSED**.

This application was deposited on 20 December, 2002, however on 20 February, 2003, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application (Filed Under 37 C.F.R. §1.53," with a statement that "a filing date has been accorded" to the application. However, it appeared that "Figure(s) 4 described in the specification" had been omitted from the application.

In response, a petition of unspecified authority (and considered here under 37 C.F.R. §1.53) was filed on 16 April, 2003, and supplemented on 13 May, 2003.

Petitioner contends that this application is a continuation of Application No. 09/722,125 (Office data indicates the filing date as 24 November, 2000), which is incorporated herein by reference, and, therefore, the omitted Figure 4 does not constitute new matter.

Analysis

A search of the official file reveals that on 20 December, 2002, Applicants filed 11 sheets of drawings consisting of 11 sheets of drawings, to wit: Fig. 1, Fig. 2, Fig.3A/Fig. 3B on a single sheet, Fig. 5, Fig. 6, Fig. 7, Fig. 8, Fig. 9, Fig. 10., Fig. 11 and Fig. 12.

Contrary to Petitioner's assertion, there is no Fig. 4 contained in the file--and if Petitioner was correct in his assertion of the presence of that figure, of necessity either the receipt card would have to reflect 12 sheets of drawings or another sheet would be missing.

Accordingly, the "Notice of Omitted Item(s)" mailed on 20 February, 2003, was correct in stating that Fig. 4 described in the specification had been omitted. Therefore, the "Notice of Omitted Item(s) was properly mailed and will not be withdrawn.

Accordingly, the petition is **dismissed**.

Because the 14 April, 2003, petition(s) (and the supplement of 13 May, 2003) were not due to an error on the part of the Office, the petition fee authorized is charged to Deposit Account 50-0320 and not refunded.

Petitioner asserts, and it is noted, that the "Patent Application Transmittal" letter was filed which itemized the filing of a declaration and preliminary amendment. The transmittal letter states that the application is a continuation of "prior Application No. 09/722,125" (filed as indicated above on 24 November, 2000, and pending as of the filing of the instant application), and that "[t]he entire disclosure of the prior application . . . is hereby incorporated . . . by reference . . . ."

This incorporation may be proper in practice before the Office. (See: MPEP §201.06(c) (in pertinent part).)[1] And, in view of the incorporation by reference, of the prior application, the drawing Fig. 4 is not new matter if it was part of the disclosure of the prior application.

The application is being returned to OIPE for further processing with a filing date of 20 December, 2002, including an indication in Office records that eleven (11) sheets of drawings were present on filing.

Thereafter, the application will be forwarded to Technology Center 3600 for consideration by the

---

[1] The commentary at MPEP §201.06(c) provides in pertinent part:

* * *

INCORPORATION BY REFERENCE

* * *

In a continuation or divisional application, the safe-guard (petition and fee under former 37 C.F.R. 1.60(b)) concerning the filing of an application lacking all of the pages of the specification or sheets of drawings of the prior application has not been retained in 37 C.F.R. 1.53(b) since the specification and drawings of a continuation or divisional application are not limited to a reproduction or a "true copy" of the prior application. As a safeguard, however, an applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The incorporation by reference statement can only be relied upon to permit the entering of a portion of the prior application into the continuation or divisional application when the portion of the prior application has been inadvertently omitted from the submitted application papers in the continuation or divisional application The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference. (Emphasis supplied.).

Application No. 10/229,398

Examiner of the petition filed 14 April and supplemented on 13 May, 2003, as an amendment requesting entry of a new sheet of drawing.

Telephone inquiries concerning this decision may be directed to the undersigned at (703)305-9199.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FISH & NEAVE IP GROUP
ROPES & GRAY, LLP
1251 AVENUE OF THE AMERICAS FL C3
NEW YORK, NY 10020-1105

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DEC 0 6 2006
OFFICE OF PETITIONS

In re Application of :
Claus Frohberg :
Application No. 10/327,288 : ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. GFB-10 DIV :

This is a decision on the petition under 37 CFR 1.137(b), filed on October 23, 2006, to revive the above-identified application.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, with the $790 filing fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE filed on October 23, 2006, and for consideration of the previously submitted amendment filed on August 3, 2006.

The application file is being referred to Technology Center Art Unit 1638.

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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DANN, DORFMAN, HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 2400
PHILADELPHIA, PA 19103-2307

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NOV 05 2004

OFFICE OF PETITIONS

In re Application of :
Dennis W. DeSalve :
Application No. 10/327,298 : ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. 2802-352-004 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 5, 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 March 9, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on June 10, 2004.

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

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

The application matter is being forwarded to the Publishing Division for further processing.

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

PARSONS HSUE & DE RUNTZ LLP
655 MONTGOMERY STREET
SUITE 1800
SAN FRANCISCO, CA 94111

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DEC 30 2004

OFFICE OF PETITIONS

In re Application of :
Won-Young Jung :
Application No. 10/327,308 : NOTICE
Filed: December 19, 2002 :
Attorney Docket No. -12797 US :

This is a notice regarding your letter received October 4, 2004 (certificate of mailing September 30, 2004), notifying the Office of loss of entitlement to small entity status and requesting acceptance of a fee deficiency submission as provided for in 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.

The instant request included an itemization and payment of $407 for the deficiency of $65 in payment of the late surcharge under § 1.16(e) and of $342 in payment of additional claim fees.

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

Payment of the deficiency has been treated under § 1.27(g)(2) as a notification of a loss of entitlement to small entity status.

The application file is being returned to the Publishing Division for processing into a patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 3-22-05

DATE : 10/20/04

TO SPE OF : ART UNIT 1614

SUBJECT : Request for Certificate of Correction on Patent No.: 6746681 (10/327,315)

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

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

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

Lamonte Newsome
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:

_____

_____

_____

_____

_____

Christopher Low
SPE

1614
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

The Sherwin-Williams Company
11 Midland Bldg. - Legal Dept.
101 Prospect Avenue, N.W.
Cleveland, OH 44115

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DEC 2 0 2004

OFFICE OF PETITIONS

In re Application of :
Wai-Kwong Ho, et al. :
Application No. 10/327,323 : ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. 6735 :

This is a decision on the petition, filed October 14, 2004, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed March 24, 2004. On October 14, 2004, an amendment and the present petition were filed.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 1713 for consideration of the response filed October 14, 2004.

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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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

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AUG 2 9 2008

In re Application of :
Hillis et al. :
Application No. 10/327,340 : DECISION ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. APPL0024 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 16, 2008, to revive the above-identified application.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Manu J. Tejwani appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Mr. Tejwani desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Tejwani, 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**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 10, 2006, as required by the Notice of Allowance and Fee(s) Due mailed April 10, 2006. Accordingly, the application became abandoned on July 11, 2006. A Notice of Abandonment was mailed September 13, 2006.

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 payment of the issue fee of $ 1440 and the publication fee of $300, (2) the petition fee of $1540; and (3) an adequate statement of unintentional delay.

Petitioner should note that the change of address filed June 16, 2008 is not acceptable, as it does not comply with 37 CFR 3.73(b)[1].

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

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

/Sherry D. Brinkley/
Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MANU J. TEJWANI
1756-114TH AVENUE SE, STE. 110
BELLEVUE, WA 98004

[1]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.

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.
10/327,345	12/20/2002	Kazumasa Nomoto	9792909-5537	5730

26263 7590 05/06/2004

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

EXAMINER	
TRAN, THIEN F	

ART UNIT	PAPER NUMBER
2811	

DATE MAILED: 05/06/2004

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/327,345			

EXAMINER	
ART UNIT	PAPER NUMBER

DATE MAILED:

NOTICE OF ABANDONMENT

This application is abandoned in view of:

☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.

- ☐ A reply (with Certificate of Mailing or Transmission of _____) was received on _____ which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
- ☐ A proposed reply was received on _____ , but it does not constitute a proper reply under 37 CFR 1.113 to the final rejection.
  (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
- ☐ A reply was received on _____ , but it does not constitute a proper reply, or a *bona fide* attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in the last box below).
- ☐ No reply has been received.

☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).

- ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85)(or Notice of Publication Fee Due).
- ☐ The submitted fee of $_____ is insufficient. A balance of $ _____ is due. The issue fee by 37 CFR 1.18 is $_____. The publication fee, if required, by 37 CFR 1.18(d) is $_____.
- ☒ The issue fee and publication fee, if applicable, have not been received.

☐ Applicant's failure to timely file corrrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTOL-37).

- ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
- ☐ No corrected drawings have been received.

☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all the applicants.

☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon filing of a continuing application.

☐ The decision by the Board of Patent Appeals and Interferences rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

☐ The reason(s) below: _____

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

PTO-1432 (07/01)

Lee D

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON, DC 20001

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MAR 06 2009

OFFICE OF PETITIONS

In re Application of
Vincent J. Wacher, et. al.
Application No. 10/327,367
Filed: December 20, 2002
Attorney Docket No. AVMX-013/01US

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 10, 2004.

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

A review of the file record indicates that the power of attorney COOLEY GODWARD KRONISH LLP has been revoked by the assignee of the patent application on June 21, 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: FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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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BINGHAM MCCUTCHEN
THREE EMBARCADERO
SUITE 1800
SAN FRANCISCO, CA 94111-4067

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Bulent Dervisoglu et al :
Application No. 10/327,369 :
Filed: December 20, 2002 :
Attorney Docket No. 19535-7306 :

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 June 29, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2825 for processing of the request for continued examination under 37 CFR 1.114.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

MARK D. SIMPSON, ESQ.
SYNNESTVEDT & LECHNER LLP
SUITE 2600
ARAMARK TOWER
1101 MARKET STREET
PHILADELPHIA, PA 19107

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APR 0 9 2003

OFFICE OF PETITIONS

In re Application of
Kulp et al.
Application No. 10/327,378
Filed: December 21, 2002
Attorney Docket No. 26,220 USA

ON PETITION

This decision concerns the March 3, 2003 "Petition under 37 CFR 1.10 for Correction of Filing Date," which is being properly treated as a petition under 37 CFR 1.10(c).

The petition is **GRANTED-IN-PART,** in that, the application is being accorded an earlier filing date than that presently accorded, rather than the requested filing date.

Petitioners request an earlier filing date of December 20, 2002 rather than the presently accorded filing date of December 24, 2002, on the basis that the application was deposited on December 20, 2002 in the U.S. Postal Service (USPS) "Express Mail" Service pursuant to the requirements of 37 CFR 1.10.

Under 37 CFR 1.10(c), any person filing correspondence that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, may petition the Commissioner if 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. However, such a petition must include, *inter alia*, **a true copy of the "Express Mail" mailing label indicating the "date-in" or other official notation by the USPS relied upon to show the date of deposit.**[1]

The present petition lacks such a copy of "Express Mail" mailing label.[2] The only USPS official notation relied upon by Petitioners to support the requested December 20, 2002 filing date is the information contained in the USPS official website, Track & Confirm, which merely indicates that the instant application papers arrived at the USPS Washington, DC 20599 Unit on December 21, 2002 at 2:04pm. The Office is unable to extrapolate from this information and conclude that the papers were deposited in the USPS "Express Mail" service on December 20, 2002. The application is thus entitled to a filing date of December 21, 2002, rather than the requested date of December 20, 2002.

No petition fee is required.

---

[1] See also MPEP section 513 (Aug. 2001).

[2] The petition does not explain why counsel does not have a mailing label with the USPS "date-in" notation upon mailing of the package.

The application file is being returned to the Office of Initial Patent Examination for further processing with a **filing date of December 21, 2002**, and for issuance of a 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/327397

DATE : 8/31/04

Paper No.: ——

TO SPE OF : ART UNIT 1746

SUBJECT : Request for Certificate of Correction on Patent No.: 6926012 B2

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

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

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 113

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

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

Comments:

MICHAEL BARR
SUPERVISORY PATENT EXAMINER

SPE

1746
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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ROSS SPENCER GARSSON
WINSTEAD SECHREST & MINICK P.C.
P. O. BOX 50784
DALLAS TX 75201

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NOV 17 2004

OFFICE OF PETITIONS

In re Application of
Smalley et al.
Application No. 10/327,405
Filed: December 20, 2002
Attorney Docket No. 11321-P010WUC2

: DECISION ON PETITION

This is a decision on the petition under 37 CFR § 1.181, filed August 11, 2004, to correct the priority information of the above-identified application.

The petition is dismissed as inappropriate.

Instead, petitioner must file a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) 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 amendment filed August 11, 2004.

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.

It is noted that the current fee for the surcharge is $ 1,370.00. Additionally, petitioner must provide a statement with the petition indicating 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 $130.00 petition fee is unnecessary and will be refunded to Deposit Account No. 23-2426.

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 FAX:
(703) 872-9306
Attn: Office of Petitions

By hand:
2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

Any questions concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
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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Ross Spencer Garsson
Winstead Sechrest & Minick P.C.
P.O. Box 50784
Dallas, TX 75201

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OFFICE OF PETITIONS

In re Application of
Smalley et al.
Application No. 10/327,405
Filed: December 20, 2002
Attorney Docket No. 11321-P010WUC2

DECISION DISMISSING PETITION
UNDER 37 CFR 1.78(a)(3)
AS MOOT

This is a decision on the petition under 37 CFR 1.78(a)(3),[1] filed May 23, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) for the benefit of a prior-filed international application designating the United States of America (Application No. PCT/US99/21367 filed September 17, 1999).

The petition under 37 CFR 1.78(a)(3) is **dismissed** as moot.

The instant petition seeks acceptance of a late claim for priority to a prior-filed PCT national stage application by way of an amendment to the specification, which reads: "This is a continuation application of application Serial No. 09/787,582 filed March 16, 2001, which is a 371 application of international application Serial No. PCT/US99/21367 filed September 17, 1999, which claims priority to patent application serial No. 60/101,093, filed September 18, 1998."

As set forth in MPEP 1893.03(c), a national stage application filed under 35 U.S.C. § 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the date of filing of that international application. *See also* MPEP 1893.03(b). In this regard, since the international application is not an earlier application (it has the same filing date as the national stage), a priority claim in the national stage of the international application is inappropriate. Accordingly, it is not necessary for the applicant to amend the first sentence of the specification to reference the international application number that was used to identify the application during international processing of the application by the international authorities prior to commencement of the national stage under 35 U.S.C. § 371.

[1] On August 11, 2004, petitioner filed a petition under 37 CFR 1.181, to correct the priority information in the instant application. The petition was dismissed by the decision of November 17, 2004. After further review, it is determined that the decision was sent in error. The Office apologizes for any inconvenience to petitioner.

In view of the above, the petition under 37 CFR 1.78(a)(3) is dismissed as involving a moot issue. Accordingly, the $1,370.00 fee submitted with the instant petition is unnecessary and will be credited to petitioner's deposit account in due course.

In reviewing the application, it is noted that a reference was made to provisional application No. 60/101,093, filed September 18, 1998. As petitioner reflected the prior-filed PCT application and provisional application on filing, a corrected filing receipt accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Petitions Attorney Christina Tartera Donnell at (571) 272-3211.

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
ATTN: Office of Petitions

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

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STALLMAN & POLLOCK LLP
SUITE 2200
353 SACRAMENTO STREET
SAN FRANCISCO, CA 94111

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AUG 1 6 2004

OFFICE OF PETITIONS

In re Application of :
Stuart David Butterworth :
Application No. 10/327,410 : ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. COHL-4581 :

This is a decision on the petition, filed August 13, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 16, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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 2828 for further processing of the request for continued examination under 37 CFR 1.114 filed August 13, 2004.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

SEP 3 0 2003

OFFICE OF PETITIONS

In re Application of :
Douglas Dedea et al :
Application No. 10/327,413 : DECISION GRANTING PETITION
Filed: December 19, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. HYS-38CP2 :

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

The petition is **GRANTED**.

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

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

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

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

required reply from the due date of the reply until the filing of a grantable petition was unintentional.

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

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 January 8, 2003 accompanies this decision on petition.

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.

Pursuant to petitioner's authorization, Deposit Account No. 50-1169 was charged $650.00 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.

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

cc: RENEE S. POLIZOTTE PH.D.
NUVELO, INC.
675 ALMANOR AVENUE
SUNNYVALE, CA 94085

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AT&T Legal Department
Attn: Patent Docketing
One AT&T Way
Room 2A-207
Bedminster NJ 07921

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NOV 21 2008

OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
W. Todd Daniell	:	UNDER 37 CFR 1.78(a)(6)
Application No. 10/327,417	:	
Filed: December 20, 2002	:	
Atty Docket No. 190206-1830	:	

This is a decision on the PETITION UNDER 37 C.F.R. §1.78(A)(3) TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM UNDER 35 U.S.C. §119, filed August 28, 2008, to accept an unintentionally delayed claim to prior-filed provisional application No. 60/425,935.

The petition is **GRANTED**.

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) and must be filed during the pendency of the nonprovisional application. In addition, the petition under 37 CFR § 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i), of the prior-filed application, unless previously submitted;

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

(3) a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(5)(ii), and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The instant application was filed after November 29, 2000. A review of the application as filed reveals that the claim for the benefit of prior-filed provisional application No. 60/425,935 set forth on petition was not submitted on filing in the first sentence of the specification or in an application data sheet. The four and sixteen-month period specified in 37 CFR 1.78(a)(5)(ii) has expired. Thus, the instant petition is appropriate. In addition, the petition includes payment of the surcharge.

On petition, a reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(5)(iii). Moreover, a Notice of Allowance was mailed in this application on May 28, 2008. On August 28, 2008, applicants timely submitted a Request for Continued Examination (RCE)(with fee and submission). The RCE is accepted for consideration of the amendment to the specification.

With respect to 35 U.S.C. 119(e) and 37 CFR 1.78(a)(6), this pending nonprovisional application was filed on December 20, 2002. The filing date of provisional application No. 60/425,935, for which priority is claimed is November 13, 2002, and thus, was filed within twelve months of this application.

A review of the application history reveals that the provisional application filing fee was paid in the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed application under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR § 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§119(e) and 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 applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3219. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 2173 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. §119(e) of the prior-filed application as set forth in the amendment filed August 28, 2008.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/327,417	12/20/2002	2173	908	190206-1830	16	5

CONFIRMATION NO. 4833

CORRECTED FILING RECEIPT

38823
AT&T Legal Department
Attn: Patent Docketing
One AT&T Way
Room 2A-207
Bedminster, NJ 07921

Date Mailed: 11/20/2008

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

Applicant(s)

W. Todd Daniell, Marietta, GA;

Power of Attorney: The patent practitioners associated with Customer Number 24504

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/411,336 09/17/2002
and claims benefit of 60/416,916 10/08/2002
and claims benefit of 60/419,613 10/17/2002
and claims benefit of 60/426,437 11/14/2002
and claims benefit of 60/425,935 11/13/2002

Foreign Applications

If Required, Foreign Filing License Granted: 02/05/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/327,417**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

SYSTEM AND METHOD FOR FORWARDING FULL HEADER INFORMATION IN EMAIL MESSAGES

Preliminary Class

345

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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OVERLAND PARK KS 66251-2100

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OFFICE OF PETITIONS

In re Application of	:	
Jones et al.	:	DECISION ON REQUEST FOR
Application No. 10/327427	:	RECONSIDERATION OF
Filing or 371(c) Date: 12/20/2002	:	PATENT TERM ADJUSTMENT
Atty. Dkt. No.: 2124	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705, filed June 29, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is either 1794 days, or 1722 days, not 1133 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction based upon the assertion that the adjustment of 72 days in connection with the mailing of the no-final Office action on February 20, 2008 may be in error and also on the basis that the Office will take in excess of three years to issue this patent. The Request is properly treated under 37 C.F.R. § 1.705(b).

The Application for Patent Term Adjustment under 37 CFR 1.705(b) 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].

As applicant advises the Office of a possible error in the calculation of the patent term adjustment, the calculation of adjustment has been carefully reviewed.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed May 29, 2009 indicates a patent term adjustment to date is 1133 days. The instant request for reconsideration of patent term adjustment indicates that the Office may have erred in calculating an adjustment of 72 days in connection with the mailing of the non-final Office action on February 20, 2008.

A final Office action was mailed June 26, 2007. An Amendment in response to the final Office action was filed August 10, 2007. An Advisory Action was mailed August 30, 2007. A Notice of Appeal and Request for Pre-Appeal Brief Request for Review was filed September 26, 2007. The Notice of Panel Decision from Pre-Appeal Brief Review mailed December 7, 2007 withdrew the finality of the rejection mailed June 26, 2007. The non-final Office action mailed February 20, 2007 was mailed four months and 72 days after the August 10, 2007 Amendment was filed. As such, pursuant to 37 CFR 1.702(a)(2), the application is entitled to an adjustment of 72 days.

Further review of the record reveals that the Office neglected to assess a reduction of 82 days in connection with the Information Disclosure Statement ("IDS") filed May 6, 2009. Thus, in accordance with 37 CFR 1.704(c)(8), the adjustment is properly reduced 82 days, the reduction having commenced February 14, 2009, the day after the date that the initial reply was filed, and ended May 6, 2009, the date that the supplemental reply (IDS) was filed.

In view thereof, as of the time of allowance, the application is entitled to an overall patent term adjustment of 1051 days (adjustments totaling 1133 days less reductions totaling 82 days).

---

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

The Office 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).

As to applicant's request for refund of the patent term adjustment application fee, applicant is advised that submission of the application fee of $200.00 is a prerequisite prior to treatment on the merits of any application for patent term adjustment and is not subject to refund. Accordingly, the request for a refund is **DISMISSED**.

Any request for reconsideration of the patent term adjustment indicated on the patent, including any request as it relates to the Office's failure to issue the patent within 3 years of the filing date, 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 application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods at (571) 272-3232.

/ALESIA M. BROWN/

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

Enclosure: Adjusted PAIR Calculation

CC: Lawrence H. Aaronson
McDONNELL BOEHNEN
HULBERT & BERGHOFF LLP
300 SOUTH WACKER DRIVE
CHICAGO, IL 60606

PTA Calculations for Application: 10/327427			
Application Filing Date:	12/20/2002	PTO Delay (PTO):	1133
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	1051
PTO Delay Adjustment:	-82		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
77	11/08/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		82	
69	05/29/2009	MAIL NOTICE OF ALLOWANCE			
68	05/28/2009	ISSUE REVISION COMPLETED			
67	05/28/2009	DOCUMENT VERIFICATION			
66	05/28/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
65	05/25/2009	EXAMINER'S AMENDMENT COMMUNICATION			
64	05/25/2009	NOTICE OF ALLOWABILITY			
63	02/13/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
62	05/06/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
59	05/06/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
56	02/13/2009	ELECTRONIC INFORMATION DISCLOSURE STATEMENT		0	54
55	03/10/2009	DATE FORWARDED TO EXAMINER			
54	02/13/2009	RESPONSE AFTER NON-FINAL ACTION			
53	02/13/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
52	11/14/2008	MAIL NON-FINAL REJECTION			
51	11/10/2008	NON-FINAL REJECTION			
45	10/20/2008	DATE FORWARDED TO EXAMINER			
44	10/16/2008	AMENDMENT AFTER FINAL REJECTION			
43	10/06/2008	CASE DOCKETED TO EXAMINER IN GAU			
42	08/18/2008	MAIL FINAL REJECTION (PTOL - 326)			
41	08/18/2008	FINAL REJECTION			
39	06/13/2008	DATE FORWARDED TO EXAMINER			
38	05/19/2008	RESPONSE AFTER NON-FINAL ACTION			
37	02/20/2008	MAIL NON-FINAL REJECTION	72		25
36	02/19/2008	NON-FINAL REJECTION			
33	12/07/2007	DATE FORWARDED TO EXAMINER			
32	12/07/2007	MAIL APPEALS CONF. REOPEN PROSEC.			
31	12/06/2007	PRE-APPEALS CONFERENCE DECISION - REOPEN PROSECUTION			
30	09/26/2007	REQUEST FOR PRE-APPEAL CONFERENCE FILED			
29	09/26/2007	NOTICE OF APPEAL FILED			
28	08/30/2007	MAIL ADVISORY ACTION (PTOL - 303)			

27	08/29/2007	ADVISORY ACTION (PTOL-303)			
26	08/13/2007	DATE FORWARDED TO EXAMINER			
25	08/10/2007	AMENDMENT AFTER FINAL REJECTION			
24	06/26/2007	MAIL FINAL REJECTION (PTOL - 326)			
23	06/25/2007	FINAL REJECTION			
22	04/16/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21.7	04/16/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT		0	19
21	04/16/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	04/18/2007	DATE FORWARDED TO EXAMINER			
19	04/16/2007	RESPONSE AFTER NON-FINAL ACTION			
18	01/16/2007	MAIL NON-FINAL REJECTION	1061		-1
17	01/06/2007	NON-FINAL REJECTION		.	
16	07/11/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
15	12/11/2006	CASE DOCKETED TO EXAMINER IN GAU			
14	11/14/2006	CASE DOCKETED TO EXAMINER IN GAU			
13	10/05/2006	CASE DOCKETED TO EXAMINER IN GAU			
12	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
11	02/10/2006	CASE DOCKETED TO EXAMINER IN GAU			
10	10/13/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	09/10/2004	CORRESPONDENCE ADDRESS CHANGE			
8	07/14/2003	PRELIMINARY AMENDMENT			
7.7	07/11/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	07/11/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	03/17/2003	CASE DOCKETED TO EXAMINER IN GAU			
5	02/14/2003	APPLICATION DISPATCHED FROM OIPE			
4	02/12/2003	APPLICATION IS NOW COMPLETE			
2	01/02/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/20/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Mail Date: 04/21/2010

Applicant	: Bryce A. Jones	: DECISION ON REQUEST FOR
Patent Number	: 7633909	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/327,427	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/20/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2043** 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 23 2007

BAKER BOTTS L.L.P.
PATENT DEPARTMENT
98 SAN JACINTO BLVD., SUITE 1500
AUSTIN TX 78701-4039

In re Application of	:	
Chun Li et al	:	
Serial No.: 10/327,455	:	PETITION DECISION
Filed: December 20, 2002	:	
Attorney Docket No.: 019856.0114	:	

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed May 1, 2003. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings.

This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, Washington, D.C. 20231, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

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

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MAY - 9 2005

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

In re Application of	:	
Murphy et al.	:	
Serial No.: 10/327,459	:	PETITION TO MAKE SPECIAL
Filed: December 20, 2002	:	
Attorney Docket No.: PC23003A	:	

This is in response to applicants' petition filed April 26, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicants have satisfied the provisions set forth in M.P.E.P. 708.02, VIII. (A), (B), (C), (D), and (E). The $130.00 petition fee as required by 37 CFR 1.17(h) was paid by check. Therefore, the petition is **GRANTED**.

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

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

Marianne C. Seidel

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Date 1/14/05

#12
9

Patent No.: 6726508
Inventor(s): Watanabe et al.
Issued: 4/2704
For: Card Connector
Attorney Docket No.

Re: Request for Certificate of Correction

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

Respecting the alleged error in column 8 and 9 line 38, and line 37, is printed in accordance with the record. 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.) 1.322.

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

Future correspondence concerning this matter should be directed to:

U.S. Patent and Trademark Office
Washington, DC 20231
Attn: Decisions & Certificates of Correction Branch

Henry Randall
Decisions and Certificates of Correction Branch
(703) 306-2817

Cecelia B. Newman, Supervisor
Decisions and Certificates of Correction Branch
(703) 305-8228 or (703) 305-8309

Salvatore Anastasi
Barley Snyder
1000 Westlake Drive, Suite 275
Berwyn, PA 19312

CBN/hr

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ERICSSON INC.
6300 LEGACY DRIVE
M/S EVR 1-C-11
PLANO, TX 75024

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AUG 16 2007

OFFICE OF PETITIONS

In re Application of :
Erik Larsson et al :
Application No. 10/327,463 : DECISION ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. :
34645-00424USC1

This is a decision on the petition under 37 CFR 1.137(b), filed November 14, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 20, 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 July 21, 2003. A Notice of Abandonment was mailed on September 29, 2006.

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). The instant petition lacks item (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the

initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over three years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on July 10, 2003 or on or before the extendable date of October 10, 2003. 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 the firm of Jenkens & Gilchrist (hereafter J&C) was counsel of during the period within which a timely reply could have been filed, then J&C should explain why this application became abandoned while it was under their control and what efforts J&C made to further reply of itself and with whom this matter was discussed outside of J&C. 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), J&C and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at J&C, 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 clear that any protracted delay could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at J&C 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.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

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OFFICE OF PETITIONS

In re Application :
Mackie :
Application No. 10/327,464 : PATENT TERM ADJUSTMENT
Filed: December 20, 2002 :
Dkt. No.: 021756-019300US :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION," filed January 13, 2009.

The application for patent term adjustment (PTA) under 37 CFR 1.705(b) is **HELD IN ABEYANCE**.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) was mailed November 13, 2008. The instant application for PTA was timely filed January 13, 2009 at the time of payment of the issue fee. Applicant argues that application is entitled to an additional adjustment of 192 days in accordance with 37 CFR 1.703(b).

Applicant contests the adjustment insofar as it relates to the Office's failure to issue the patent within three years of the filing date of the application pursuant to 37 CFR 1.703(b) in view of Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

To the extent that this application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is ordinarily required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, 37 CFR 1.703(b). It is noted that at the time of this decision, the patent has not issued.

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

With respect to the over 3 year calculation, 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.

Receipt is hereby acknowledged of the required patent term adjustment application fee of $200.00.

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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

/Kery Fries/

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

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OFFICE OF PETITIONS

In re Patent of Mackie :
Patent No. 7,523,133 :
Issue Date: April 21, 2009 :
Application No. 10/327,464 :
Filing Date: December 20, 2002 :
Attorney Docket No. 021756-019300US :

DECISION ON APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is in response to the "Request for Reconsideration of Patent Term Adjustment Determination" filed May 13, 2009. Patentee requests the determination of patent term adjustment indicated on the on the patent be corrected from three hundred eleven (311) days to five hundred three (503) days.

The request for reconsideration of the patent term adjustment indicated on the patent is **dismissed**.

The application was filed December 20, 2002. On November 13, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) in the above-identified application. The Notice stated the patent term adjustment to date is 311 days.[1]

Patentee filed a "Request for Reconsideration of Patent Term Adjustment Determination" on January 13, 2009. The Requested asserted the patent term adjustment of 311 days should be increased by 192 days as a result of 192 days of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay").

The January 13, 2009 Request did not dispute the Office's determination of the number of days of delay 35 U.S.C. § 154(b)(1)(A) or the number of days of Applicant Delay.

On March 13, 2009, the Office mailed a response to the January 13, 2009. The response stated, with emphasis in the original,

> To the extent that this 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

[1] The 311 days of term adjustment was based on 488 days of Office delay reduced by 177 days of Applicant delay.

> years of the filing date, a decision is being **held in abeyance** until after the actual patent date....
>
> Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years.... Applicant may seek such consideration without payment of an additional fee.

The application matured into United States Patent No. 7,523,133 with a patent term adjustment of 311 days on April 21, 2009. This request for reconsideration was timely filed within two months of the issue date of the patent.

The instant request asserts the patent term adjustment should be 503 days. Specifically, patentee asserts the patent term adjustment of 311 days should have been increased for 192 days for B Delay.

The first issue to be addressed is patentee's assertion the correct number of days of B Delay.

As stated in 35 U.S.C. § 154(b)(1)(B)(i), B Delay does not include "any time consumed by continued examination of the application requested by the applicant under section 132(b)." In other words, B Delay in this case does not include the number of days from the date a request for continued examination is filed until the patent is issued.[2]

A Request for Continued Examination ("RCE") was filed June 30, 2006, which is the date three years and 192 days after the filing date of the application. Therefore, the Office agrees with patentee's assertion that the amount of B delay in the instant case is 192 days.
The second issue to be addressed is the extent to which the patent term adjustment listed on the Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) should have been increased as a result of Office delay in the issuance of the patent (B Delay).

35 U.S.C. § 154(b)(2)(A) limits Office delay to the sum of A Delay and B Delay to the extent such periods of delay are not overlapping. Specifically, 35 U.S.C. § 154(b)(2)(A) states,

> To the extent that time periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

---

[2] 35 U.S.C. § 154(b)(1)(B)(i). *See also Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 56,366, 53,370-53,371 (September 18, 2000), 1239 Off. Gaz. Pat. Office (October 3, 2000):

> 35 U.S.C. 154(b)(1)(B) provides that an applicant may receive a term adjustment if the application is not issued within three years of the filing date of the application, excluding (among other things) any time consumed by continued examination requested under 35 U.S.C. 132(b). Once a request for continued examination under 35 U.S.C. 132(b) and § 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and § 1.114.

Patentees do not dispute that the total period of Office delay is the sum of the period of A Delay (488 days) and the period of B Delay (192 days) to the extent the periods of delay do not overlap. However, patentees assert the period of overlap is 0 days. The Office does not agree with patentee's assertion. The Office contends the period of overlap is 192 days.

The Office has described its position regarding the proper interpretation of 35 U.S.C. § 154(b)(2)(A) as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment.[3]

In this case, the relevant time period when determining if periods of delay "overlap" is the time period from the filing date of the application, December 20, 2002, to the date a RCE was filed, June 30, 2006. The period of delay of 192 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 488 days attributable to grounds specified in 37 C.F.R. § 1.702(a)(1).
Since the 192 days of B delay overlap with 192 of the 488 days of A Delay, the Office acted properly when the Office did not enter any additional days to the patent term adjustment for B Delay when issuing the patent.

Patentee cites the Memorandum and Order entered in *Wyeth v. Dudas*, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008) in support of its assertion the number of days of overlap is zero days. Although the Office has considered the decision in *Wyeth*, the Office is not persuaded that the Office's current and long standing interpretation of the statute is incorrect.

---

[3] *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004) (*quoting Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704, 21706 (April 22, 2004)). The Notice also provided a discussion of an example of the application of the overlap provision:

> A two month delay in issuing a first Office action (35 U.S.C. 154(b)(1)(A)(i)) and a two-month delay in issuing the patent (35 U.S.C. 154(b)(1)(B)) [are] considered overlapping delays, even though the two-month delay in issuing the first Office action occurred prior to three years (thirty-six months) after the application's filing date. This is because if the Office does not issue the patent until three years and two months (thirty-eight months) after its filing date, the relevant period in determining the Office delay in issuing the patent is not just the period between three years (thirty-six months) after the application's filing date and the date the patent issues (thirty-eight months after the application's filing date), but is the entire period between the application's filing date and the date the application issues.

Although the Office has considered patentee's arguments concerning the proper interpretation to be given to the overlap provision set forth in 35 U.S.C. § 154(b)(2)(A), the Office is not persuaded that the Office's current and long standing interpretation of the statute is incorrect.

The Office's interpretation of 35 U.S.C. § 154(b)(2)(A) is consistent with the purpose of the statute. The language in 35 U.S.C. § 154(b)(2)(A) is the result of the passage of the American Inventors Protection Act, Pub. L. No. 106-113, §§ 4401, 113 Stat. 1501, 1501A-552 (1999). A section-by-section analysis of the American Inventors Protection Act, published in the Congressional Record at the request of Senator Lott, elaborated this limitation:

> [T]otal adjustments granted for restorations under (b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order * * * and administrative delay under section 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed.[4]

For the reasons previously discussed, the Office acted properly when it did not increase the patent term adjustment as a result of B Delay and the patent term adjustment set forth on the patent remains 311 days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[4] 145 Cong. Rec. S14,708, S14,718 (Nov. 17, 1999).

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 7

PARSONS HSUE & DE RUNTZ LLP
655 MONTGOMERY STREET
SUITE 1800
SAN FRANCISCO, CA 94111

COPY MAILED

FEB 10 2004

OFFICE OF PETITIONS

In re Application of
Shchegrov et al.
Application No. 10/327,466
Filed: December 19, 2002
Attorney Docket No. TNCR.203US1
For: PARAMETRIC PROFILING USING OPTICAL SPECTROSCOPIC SYSTEMS

DECISION REFUSING TO ACCORD STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed October 6, 2003.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

A grantable petition under 37 CFR 1.47(a) requires

(1) proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refuses to sign after having been presented with the application papers (specification, claims, and drawings),
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

The instant petition fails to satisfy (1) as to inventor Andrei Shchegrov. Petitioner has failed to establish that diligent effort has been exerted to find Andrei Shchegrov. Petitioner simply determined the last known address was incorrect and that the employer did not have a new address. The petition does not lists other steps to locate the inventor such as contacting directory assistance or performing an internet search.

The following information is for petitioner's benefit only and merely provided as a courtesy by the undersigned attorney. The Office does not verify that the information is correct nor does the information, if inaccurate, release petitioner from the obligation to exercise diligent effort to find Shchegrov. An internet search indicates that a Andrei Shchegrov who previously lived at the address listed on the declaration, now lives at 2309 Montezuma Drive, Campbell, California 95008-3826.

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

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

By facsimile: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

Mehrdad Nikoonahad
271 Oakhurst Place
Menlo Park, CA 94025

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MAY 0 7 2004

OFFICE OF PETITIONS

In re Application of :
Shchegrov et al. :
Application No. 10/327,466 : Letter
Filed: December 19, 2002 :
Attorney Docket No. TNCR.203US1 :
For: PARAMETRIC PROFILING USING :
OPTICAL SPECTROSCOPIC SYSTEMS :

Dear Mr. Nikoonahad:

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 Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: PARSONS HSUE & DE RUNTZ LLP
655 MONTGOMERY STREET
SUITE 1800
SAN FRANCISCO, CA 94111

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

PARSONS HSUE & DE RUNTZ LLP
655 MONTGOMERY STREET
SUITE 1800
SAN FRANCISCO, CA 94111

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MAY 07 2004

OFFICE OF PETITIONS

In re Application of
Shchegrov et al.
Application No. 10/327,466
Filed: December 19, 2002
Attorney Docket No. TNCR.203US1
For: PARAMETRIC PROFILING USING OPTICAL SPECTROSCOPIC SYSTEMS

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the renewed petition under 37 CFR 1.47(a), filed March 8, 2004.

The petition is **granted**.

Previously, a petition under 37 CFR 1.47(a) was filed to accept the declaration without the signature of inventors Andrei V. Shchegrov and Mehrdad Nikoonahad. The showing was sufficient for inventor Nikoonahad. However, the petition was dismissed because the showing failed to establish that diligent effort had been exerted to locate inventor Shchegrov.

The instant petition is accompanied by a declaration signed by inventor Shchegrov. Therefore, the portion of the petition dealing with Shchegrov is dismissed as moot and the remainder of the petition dealing with Nikoonahad is granted.

The above-identified application has 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 should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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AUG 30 2005
Parsons Hsue & de Runtz LLP

PARSONS HSUE & DE RUNTZ LLP
655 MONTGOMERY STREET
SUITE 1800
SAN FRANCISCO, CA 94111

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AUG 26 2005
OFFICE OF PETITIONS

In re Application of :
Shchegrov et al. :
Application No. 10/327,466 :
Filed: December 19, 2002 : Letter
Attorney Docket No. TNCR.203US1 :
For: PARAMETRIC PROFILING USING :
OPTICAL SPECTROSCOPIC SYSTEMS :

A declaration was filed on October 6, 2003, along with a petition under 37 CFR 1.47(a). The petition requested the declaration be accepted without the signatures of inventors Nikoonahad and Shchegrov.

A decision dismissing the petition was mailed on February 10, 2004. The decision was based on the fact that the petition failed to prove Shchegrov could not be located after diligent effort.

A renewed petition and declaration signed by Shchegrov were filed on March 8, 2004. A decision accepting the declaration without the signature of Nikoonahad was mailed on May 7, 2004.

On or about September 8, 2004, the Office removed the papers from the paper file and scanned the papers to create an electronic file wrapper.

Upon examination of the application, the Technology Center noted a portion of the October 6, 2003 declaration was missing.

The file only contains 3 pages of declaration filed October 6, 2003. The October 6, 2003 declaration in the file is only signed by inventors Ady Levy and Walter Mieher.

The Office requests petitioner supply a full copy of the declarations filed October 6, 2003, along with a postcard receipt and/or a statement under 37 CFR 1.8(b).

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

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

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/15/09

TO SPE OF : ART UNIT 1792

SUBJECT : Request for Certificate of Correction for Appl. No.: 10327467 Patent No.: 7172792 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 (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Director/SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch

703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

_____ AU1792

PAGE 1/2 * RCVD AT 7/16/2009 10:43:44 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/24 * DNIS:2709990 * CSID:7033051086 * DURATION (mm-ss):01-36

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

TOWNSEND and TOWNSEND and CREW, LLP
Two Embarcadero Center
8th Floor
San Francisco, CA 94111-3834

APR 22 2003

In re Application of)
Johan Agus Darmawan)
Application No. 10/327,479)
Filed: December 20, 2002)
For: SILICON ON INSULATOR DEVICE)
WITH IMPROVED HEAT REMOVAL)
AND METHOD OF MANUFACTURE)

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 March 24, 2003.

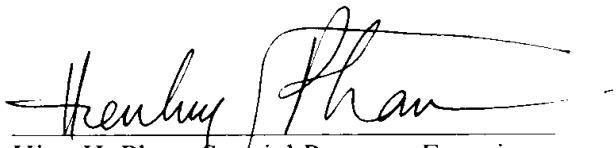
A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date 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, Customer No. 20350.

The request is APPROVED.

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.

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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Paper No. 6

Renee S. Polizotto
675 Almanor Avenue
Sunnyvale, CA 94085

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OCT 2 9 2003

OFFICE OF PETITIONS

In re Application of :
Douglas Dedera :
Application No. 10/327,491 : DECISION GRANTING PETITION
Filed: December 19, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. HYS-49CP2 :

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

The petition is **GRANTED**.

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

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

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

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

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

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 February 5, 2004 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

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

Sherry D. Brinkley
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.: X

DATE : October 19,2007

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/327,500 Patent No.: 7129269 B2

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

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

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE 1626 **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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RICK ABEGGLEN, ATTY.
c/o MUELLER SPORTS MEDICINE, INC.
ONE QUENCH DRIVE
P.O. BOX 99
PRAIRIE DU SAC WI 53578

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SEP 13 2006

OFFICE OF PETITIONS

In re Application of
Ronald E. Nelson et al.
Application No. 10/327,504
Filed: December 20, 2002
Attorney Docket No: 054269-0134

ON PETITION

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

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

The application was held abandoned on December 6, 2005, for failure to file a timely response to the Restriction Requirement mailed November 3, 2005 which set a one month period for reply. Accordingly, a Notice of Abandonment was mailed on June 12, 2006.

Petitioner asserts that a response to the Restriction Requirement was timely filed although with an incorrect serial number.

While, the requirement for filing papers with the USPTO is that every paper bear an appropriate application no. or identifier, other identifiable information was found to be on the papers filed as the response. A review of the file reveals the response filed December 5, 2005 with a certificate of mail dated November 17, 2005, in the correct application file.
As such, the papers were matched with the correct application and thus the response was timely.

Accordingly, the Notice of Abandonment mailed June 12, 2006 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 3764 for treatment of the response filed December 5, 2005.

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

UNITED STATES 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

NEKTAR THERAPEUTICS
150 INDUSTRIAL ROAD
SAN CARLOS CA 94070

COPY MAILED

MAR 0 9 2006

OFFICE OF PETITIONS

In re Application of :
Thomas E. Tarara et al. :
Application No. 10/327,510 : DECISION GRANTING
Filed: December 19, 2002 : PETITION UNDER 37 C.F.R. §1.137(b)
Attorney Docket No. 0147.00 :
Title: PULMONARY DELIVERY OF :
AMINOGLYCOSIDES :

This is a decision on the petition filed January 17, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive 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 a timely manner to the final Office action mailed June 28, 2005, which set a shortened statutory period for reply of three (3) months. On October 28, 2005, an amendment was received along with a one-month extension of time, and an advisory action was mailed on November 30, 2005. No further responses were received, and no extensions of time were requested. Accordingly, the above-identified application became abandoned on October 29, 2005.

With the present petition, petitioner has filed the petition fee, a Request for Continued Examination (RCE) under 37 C.F.R. §1.114 as well as the associated fee and the proper statement of unintentional delay. The RCE has been accepted as the required reply under 37

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.

C.F.R. §1.137(b)(1). The amendment submitted on October 28, 2005 shall serve as the required submission.

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

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

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay[2]. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.137(b) was intentional, petitioner must notify the Office.

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

cc: Ashok K. Janah
650 Delancey Street, Suite 106
San Francisco, CA 94107

2 See 37 CFR 10.18(b); cf. Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

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Paper No. 5

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SEP 0 1 2004

OFFICE OF PETITIONS

NICK ADAMS
32834 BEST AVE
MISSION BC V2V 2S8 CA
CANADA

In re Application of :
Adams : DECISION ON PETITION
Application No. 10/327,520 :
Filed: December 20, 2002 :
For: GOLF CLUB WEIGHTED :
ATTACHMENT DEVICE / GOLF BALL :
HOLDER :

This decision is in response to the petition filed under 37 CFR 1.137(a) filed July 16, 2004.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from 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 April 12, 2003 for failure to timely file a proper response to the Notice to File Corrected Application Papers ("Notice") mailed February 11, 2003. The Notice set a two (2) month non-statutory period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely obtained. Notice of Abandonment was mailed June 9, 2004.

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).

Payment of the petition fee for consideration under Rule 137(a) is a prerequisite for treat on the merits of the instant

petition. The Office will not reach the merits of any petition under 37 CFR 1.137(a) lacking the requisite fee. Applicant's petition under 37 CFR 137(a) filed July 16, 2004 is **DISMISSED** because the proper petition fee of $55.00 required under 37 CFR 1.17(l) has not been submitted.

The current fee required under 37 CFR 1.137(a)(2) for a small entity is $55.00. Any renewed petition must be accompanied by the requisite fee.

An examination of this petition reveals that petitioner is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

Applicant is advised of the availability of the publication "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

ALTERNATE VENUE

Petitioner is **strongly** urged to consider filing a petition stating that the delay was unintentional. Petitioner's attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

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

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NICK ADAMS
32834 BEST AVE
MISSION BC V2V 2S8 CA
CANADA

COPY MAILED

AUG 10 2005

OFFICE OF PETITIONS

In re Application of :
Adams : DECISION ON PETITION
Application No. 10/327,520 :
Filed: December 20, 2002 :
For: GOLF CLUB WEIGHTED :
ATTACHMENT DEVICE / GOLF BALL :
HOLDER :

This is a decision on the renewed petition under 37 CFR 1.137(a), filed July 5, 2005 and supplemented July 18, 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 April 12, 2003 for failure to timely reply to the Notice to File Corrected Application Papers (Notice) mailed February 11, 2003. The Notice set a two 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 June 9, 2004. A petition under 37 CFR 1.137(a) was filed July 16, 2004 and dismissed September 1, 2004. Office Finance Records reflect that a petition fee was submitted September 22, 2004. However, the petition fee was not accompanied by a renewed petition, as the decision on petition mailed September 1, 2004 advised must be submitted. Nevertheless, in light of the circumstances surrounding the instant petition, the submission of the required petition fee on September 22, 2004 will be deemed a timely reply to the decision mailed September 1, 2004.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The present petition fails to satisfy requirement (3) set forth above. Petitioner has failed to present a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The Office may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 CFR 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

Petitioner attributes the delay in timely responding to the Notice to medical illness. Petitioner states that he has been sick since February 2003, suffering from fatigue, anxiety, and severe headaches. Petitioner further states he was prescribed antidepressants and Valium. Petitioner further states that he has been diagnosed with a brain tumor. Petitioner further states that he had an operation and has undergone radiation and chemotherapy.

The petition is accompanied by a brief letter signed by A.K. Mehra, M.D. (Mehra) who states that "[t]his patient was seen on 27th May 2003 with hypertension" and that Mr. Adams was "quite anxious about finding out about hypertension" and that "[i]t has affected his daily functioning." The letter further states that Mr. Adams was seen on November 24, 2003 with a diagnosis of a brain tumor and that Mr. Adams is getting treatment for the tumor and is "very anxious about the diagnosis and treatment."

Petitioner has not submitted sufficient documentary evidence of the alleged medical conditions. Moreover, the petition and letter from Mehta lack detail. Furthermore, the exact time periods during which these events occurred is not adequately disclosed in the petition.

Nonetheless, the arguments and supporting document have been reviewed, but are not found to be persuasive. Petitioner has failed to establish a nexus between the alleged medical condition and the failure to timely submit a proper reply to the Notice.

A reply to the Notice was due on or before April 11, 2003. While petitioner states that he has been sick since early February, 2003, the supporting document submitted herewith does not support this statement as Mehra states petitioner was treated on May 27, 2003 for hypertension, subsequent to the date by which a reply was due. Thus, it is has not been established that the medical conditions alleged by petitioner were the requisite cause of petitioner's failure to timely reply to the Notice.

It is not clear if Mehra has directly treated petitioner for either of the medical conditions mentioned briefly in the letter; i.e., hypertension and/or brain tumor. Moreover, Mehta does not give a professional opinion insofar as what, if anything, petitioner's alleged illness would have prevented him from doing and for how long. Mehra fails to give a professional opinion as to whether or not petitioner's medical condition would have prevented him from timely attending to his most pressing business affairs, such as responding to the Notice. Moreover, the letter is vague with regards to the time periods during which petitioner has been ill. Specific dates regarding the alleged medical condition and the exact nature of the illness are not set forth by either petitioner or Mehra's letter. Mehra merely states that petitioner was seen May 27, 2003 for hypertension and that petitioner was anxious about the diagnosis of hypertension. Mehra further states that petitioner was seen on November 24, 2003 with a diagnosis of a brain tumor.

It is unclear if petitioner's medical condition remains ongoing or whether petitioner is continuing to undergo medical treatment up to and including the present time. It is unclear when petitioner became aware that the application was abandoned and the exact actions taken to seek revival. Hence, petitioner has failed to establish that the entire period of time from the time that a reply to the Notice was due until the time of filing of a grantable petition has been unavoidable.

Any renewed petition should be accompanied by supporting documentary evidence that establishes that the entire period of time from the time the reply was due until the filing of a grantable petition has been unavoidable.

Petitioner may wish to consider submitting affidavits from medical professionals detailing, for instance, the nature of his condition, the time periods during which petitioner has been so afflicted, and the limitations such conditions has placed on petitioner's ability to timely attend to his most important business affairs, in particular his ability to time reply to the Notice for which a reply was due on or before April 11, 2003. Petitioner may wish to submit medical records to aid petitioner in establishing that the entire period of delay has been unavoidable due to medical illness. Petitioner is encouraged to present an exhausting showing of evidence that sufficiently establishes petitioner's contention that the entire period of time from the time that a reply was due April 11, 2003 until the time of filing of a grantable petition has been unavoidable.

Petitioner, however, should be advised that the submission of supporting documentary evidence is completely voluntary. Petitioner should further be aware that the principal purpose for which the supporting documentary evidence is sought is for use by the Office in rendering a decision regarding the revival of the instant application. Moreover, petitioner should be advised that abandoned application files are open to public inspection. Hence, petitioner is cautioned that any and all information submitted in support of petitioner's petition is open for public inspection. Thus, petitioner is encouraged to redact any and all information that petitioner would not desire be disclosed publicly; i.e., social security numbers; credit card information; etcetera. Lastly, petitioner should be aware that a decision on petition can only be rendered based on non-redacted information.

ALTERNATE VENUE

Petitioner may wish to consider filing a petition stating that the entire 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*, enclosure.

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

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

By facsimile:
(571) 273-8300

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: USPTO Privacy Statement
PTO/SB/64

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NICK ADAMS
32834 BEST AVE
MISSION BC V2V 2S8 CA
CANADA

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SEP 13 2005

OFFICE OF PETITIONS

In re Application of :
Adams : DECISION ON PETITION
Application No. 10/327,520 :
Filed: December 20, 2002 :
For: GOLF CLUB WEIGHTED :
ATTACHMENT DEVICE / GOLF BALL :
HOLDER :

This is a decision on the petition renewed under 37 CFR 1.137(b), filed August 23, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned April 12, 2003 for failure to timely reply to the Notice to File Corrected Application Papers (Notice) mailed February 11, 2003. The Notice set a two 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 June 9, 2004. A petition under 37 CFR 1.137(a) was filed July 16, 2004 and dismissed September 1, 2004. Office Finance Records reflect that a petition fee was submitted September 22, 2004. However, the petition fee was not accompanied by a renewed petition, as the decision on petition mailed September 1, 2004 advised must be submitted. Nevertheless, in light of the circumstances surrounding the instant petition, the submission of the required petition fee on September 22, 2004 will be deemed a timely reply to the decision mailed September 1, 2004. A renewed petition was filed July 18, 2005 and dismissed August 10, 2005.

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

(and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 7

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

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MAR 16 2004

OFFICE OF PETITIONS

In re Application of :
Jong Woo Son et al :
Application No. 10/327,529 : ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. 23976-08681 :

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 Missing Parts of Nonprovisional Application (Notice) mailed March 5, 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 6, 2003.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

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

Wan Laymon
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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OFFICE OF PETITIONS

Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

In re Application of :
Edward Shipwash :
Application No. 10/327,531 : DECISION ON PETITION
Filed: December 19, 2002 : TO WITHDRAW
Attorney Docket No. TJU0011-101 : 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 21, 2006.

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

A review of the file record indicates that the power of attorney to the attorneys and/or agents associated with Customer Number 20350 has been revoked by the assignee of the patent application on September 15, 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 Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Cozen O'Connor, P.C.**
1900 Market Street
Philadelphia, PA 19103-3508

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WASHINGTON, D.C. 20231
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MAY 19 2003

OFFICE OF PETITIONS

B. Noel Kivlin
Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.
P.O. Box 398
Austin, TX 78767

In re Application of :
Slaughter, et al. :
Application No. 10/327,544 : DECISION GRANTING STATUS
Filed: December 20, 2002 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 5760-03200 :
For: METHOD AND SYSTEM FOR :
IMPLEMENTING A GLOBAL NAME SPACE :
SERVICE :

This is in response to the petition under 37 CFR 1.47(a), filed April 14, 2003.

The petition is **GRANTED**.

Petitioner has shown that inventor Paul Czarnik 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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MAY 19 2003

OFFICE OF PETITIONS

PAUL CZARNIK
3120 FOX CREEK DRIVE
DANVILLE, CA 94506

In re Application of :
Slaughter, et al. :
Application No. 10/327,544 : LETTER
Filed: December 20, 2002 :
Attorney Docket No. 5760-03200 :
For: METHOD AND SYSTEM FOR :
IMPLEMENTING A GLOBAL NAME SPACE :
SERVICE :

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

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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OFFICE OF PETITIONS

B. Noel Kivlin
Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.
P.O. Box 398
Austin, TX 78767

In re Application of
Krumel et al.
Application No. 10/327545
Filed: December 20, 2002
Attorney Docket No. 5760-03300
Title of Invention: METHOD AND SYSTEM FOR CREATING A PEER-TO-PEER OVERLAY NETWORK

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed April 21, 2003 (certificate of mailing April 14, 2003) under 37 CFR. §1.47(a).

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 on December 20, 2002, with a partially executed oath or declaration. Accordingly, on February 14, 2003, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring for the purposes of this decision, an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of April 14, 2003.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, statement of facts and a copy of a certified mail receipt .

A grantable petition under 37 CFR. §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition does not satisfy requirement (2).

As to item (2), an oath or declaration under 37 CFR 1.63 must be presented by each actual inventor. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. See MPEP 201.03. In effect, there

are two pages of "page three" of the declaration which do not have consistent information A declaration that reflects the proper inventive entity must be signed or presented to all of the inventors.

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) 306-0251.

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
ALEXANDRIA, VA 22313-1450
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Paper No. 7

B. Noel Kivlin
Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.
P.O. Box 398
Austin, TX 78767

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AUG 1 8 2003

OFFICE OF PETITIONS

In re Application of
Andrew Krumel, Paul Borrill, Paul Czarnik, Gregory Slaughter, John Muth, and Girish Jorapurkar
Application No.10/327,545
Filed: December 20, 2002
Attorney Docket Number: 5760-03300
Title of Invention: METHOD AND SYSTEM FOR CREATING A PEER-TO-PEER OVERLAY NETWORK

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed June 27, 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 application was sent to non-signing inventor's last known address. The non-signing inventor's failure to respond to the application mailing sufficiently establishes that he refuses to execute 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.

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paul Czarnik
3120 Fox Creek Drive
Danville, CA 94506

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AUG 1 8 2003

OFFICE OF PETITIONS

In re Application of
Andrew Krumel, Paul Borrill, Paul Czarnik, Gregory Slaughter, John Muth, and Girish Jorapurkar
Application No.10/327,545
Filed: December 20, 2002
Attorney Docket Number: 5760-03300
Title of Invention: METHOD AND SYSTEM FOR CREATING A PEER-TO-PEER OVERLAY NETWORK

LETTER

Dear Mr. Czarnik:

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

B. Noel Kivlin
Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.
P.O. Box 398
Austin, TX 78767

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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MAY 12 2006
OFFICE OF PETITIONS

In re Application of :
Masahiro Ozawa et al. :
Application No. 10/327,549 : ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. 6340-000030 :

This is a decision on the petition filed March 27, 2006, to revive the above identified application under 37 CFR 1.137(b)[1].

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

This application became abandoned for failure to file a timely response to a Restriction Requirement mailed February 17, 2005, which set a one month shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained. A response filed March 17, 2005 was not responsive and thus the application became abandoned. Accordingly, a Notice of Abandonment was mailed February 28, 2006.

The petition fee in the amount of $1500.00 has been applied to the finance records for the instant patent application.

The response to the Restriction Requirement filed March 27, 2006 will be referred to Technology Center 3682 for further processing.

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 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

8 December 2004

Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.
700 Lavaca, Suite 800
Austin, Texas 78701-3102

In re Application of	:	
Margaret E. Knight	:	
Application No. 10/327,561	:	DECISION ON PETITION UNDER
Filed: December 20, 2002	:	37 CFR 1.48(a)
Attorney Docket No. 5760-00101	:	

This is a decision on a November 26, 2004 petition under 37 CFR 1.48(a), requesting correction of inventorship and on the papers filed concurrently in support thereof.

The 37 CFR 1.48(a) petition to correct inventorship is Granted.

In view of the papers filed 26 November 2004, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a).

The inventorship of this application has been changed by adding the previously unnamed persons as inventors of this application:

Ron S. Vogel

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Nasser G. Moazzami
Primary Examiner, Art Unit 2187
Technology Center 2100
US Patent Office
571.272.4195

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Paper No. 9

Fish & Richardson
225 Franklin Street
Boston, MA 02110-2804

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JAN 07 2004

OFFICE OF PETITIONS

In re Application of :
Karoly Horvath et al. :
Application No. 10/327,591 : ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. 00231-089003 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 4, 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 March 26, 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 27, 2003.

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 Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

MCDONNELL BOEHNEN HULBERT & BERGHOFF
300 SOUTH WACKER DRIVE, 32FLOOR
CHICAGO, IL 60606

In re Application of :
Eugene Regis Krah III et al :
Application No. 10/327,598 : ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. 01-799-A

This is a decision on the petition filed, July 27, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 9, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1643 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

McDonnell, Boehnen, Hulbert & Berghoff LLP
300 South Wacker Drive, 32th Floor
Chicago, Il 60606

In re Application of :
Krah et al. :
Application No. 10/327,598 : DECISION DISMISS PETITION
Filed: December 20, 2002 :
Attorney Docket No. 01-799-A :

This decision is in response to Applicants' "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION" under (37 CFR 1.705(b) " filed on December 8, 2006 requesting that the Office adjust the PTA determination at the time of the mailing of the notice of issuance from a determination of 251 days to a determination of two hundred and fifty-five (255) days.

Applicants application for PTA is **DISMISSED.** Applicants are given **thirty** days to respond to this decision. No extensions of time will be granted under 37 CFR 1.136. Any response should be directed to Mail Stop Petitions.

Applicants assert that the Office erred in assessing a four day reduction under 37 CFR 1.704(b)for the submission of the response to the September 23, 2005 Office action on December 27, 2005. Applicants assert that the Office action was mailed by express mail and should have been given the response date of December 21, 2005 rather than the response date of December 27, 2005. As contributing proof, applicants have submitted a copy of the internal log as well as a receipt from the USPS showing payment for the express mail label.

Applicants arguments are not persuasive. The Office notes that applicants are actually combining a petition under 37 CFR 1.10 with the petition under 37 CFR 1.705(b). In order to receive a favorable decision under 37 CFR 1.705(b), applicants must present the requisite evidence pursuant to 37 CFR 1.10. The Office has reviewed the evidentiary submission but does not deem such persuasive. The Office notes that applicants have failed to present a true copy of the "date-in" on the "Express Mail" mailing label and of any other official notation entered by the USPS relied upon to show the date of deposit. See MPEP 513 and 37 CFR § 1.10.

After mailing this decision, the application will be forwarded to the Office of Publications for a prompt issuance of the application. Any delays pursuant to 37 CFR 1.702(a)(4) or (b) will be considered at the time of the issuance of the patent and applicant will be notified by an issue notification letter that is mailed to applicants approximately three weeks prior to issuance of the patent.

The Office has received the $200.00 application fee. No additional fees are necessary in rendering this decision.

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

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

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ALLEN C. TURNER
TRASKBRITT PC
230 S 500 E STE 300
SALT LAKE CITY, UT 84102

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JUN 23 2006
OFFICE OF PETITIONS

In re Application of :
Johannes C. J. Van Groeninghen :
Application No. 10/327,621 : DECISION ON REQUEST
Filed: December 20, 2002 : TO WITHDRAW
Attorney Docket No. 2183.02-5641US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §1.36(b), filed February 2, 2006.

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

A review of the file record indicates that the power of attorney to Allen C. Turner and all the other attorneys/agents of record was revoked by the assignee of the patent application on February 24, 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.

An outstanding Office action that requires a response by applicant was mailed on April 13, 2006.

Telephone inquires concerning this decision should be directed to Sherry D. Brinkley at 571-272- 3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee:

cc: FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

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DIW May-06

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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In re Application of	:	
Milleker et al.	:	LETTER REGARDING
Application No. 10/327,622	:	PATENT TERM ADJUSTMENT
Filed: 20 December, 2002	:	
Attorney Docket No. 10022-316	:	

This is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed on 7 February, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. §154(b) be reviewed for accuracy.

The request for correction of the patent term adjustment (PTA) is **DISMISSED**.

On 1 December, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. §154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is four hundred sixty two (462) days. Applicants filed the instant "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT" on 7 February, 2006. Applicants assert that the patent should issue with zero (0) days of patent term adjustment.

A review of the record reveals that the determination of patent term adjustment was correct. The Office determined a patent term adjustment of four hundred sixty two (462) days based on an adjustment for PTO delay of four hundred ninety seven (497) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1), reduced by thirty-three (33) days and two (2) days of applicant delay pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. §1.704(b).

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **four hundred sixty two (462) days** (497 days of PTO delay, reduced by 35 (32+2) days of

Applicant delay). To the extent that patentees are aware of any specific error in the PTA calculation, applicants should so advise the Office.

It is noted that the patent issuing from this application is subject to a terminal disclaimer. In this regard, the Office calculates patent term adjustment for examination delay in all eligible applications. In calculating the patent term adjustment, the Office does not differentiate between applications that have terminal disclaimers and those that do not.

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

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

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MD 200-9
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OFFICE OF PETITIONS

In re Application of :
Pandya et al. :
Application No. 10/327,629 : ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. 59.0057 :

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

The petition is **DISMISSED.**

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 14, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 15, 2008.

A grantable petition 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, but must be the payment of the issue fee or any outstanding issue fee or any portion thereof; (2) the petition fee as set forth in 37 CFR 1.17(l); (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; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The required reply, in the form of an amendment, was filed on October 9, 2008. The petition fee of $540.00 was paid and the revival of the application under 37 CFR 1.137(a) was considered.

Since this utility application was filed after June 8, 1995, no terminal disclaimer is required. However, the instant petition lacks item (3).

35 U.S. C. 133 and 151 each require a showing that the "delay" was "unavoidable." This requires not only a showing that the delay that resulted in the abandonment of the application was unavoidable, but also a showing of unavoidable delay until the filing of a petition to revive. See *In re Application of Takao*, 17 USPQ2d 1155 (Comm'r Pat. 1990). The burden of continuing in the process of presenting a grantable petition in a timely manner likewise remains with the applicant until the applicant is informed that the petition is granted. *Id* at 1158.

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137:

(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 to revive the application; and

(3) The delay in filing a **grantable** petition pursuant to 37 CFR 1.137 to revive the application.

Petitioner asserts that the unavoidable delay was due to the office closure that occurred from September 11, 2008 through September 16, 2008 in response to the arrival of Hurricane Ike. However, this only addresses a brief period in the delayed response rather than the entire delay. Accordingly, the showing does not demonstrate that the delay in periods (1) and (2) above was unavoidable.

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, 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).

A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay. *See* Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891). A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (1) the applicant's reliance upon oral advice from Office employees; or (2) the Office's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. *See* In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

The present application became abandoned on June 15, 2008, after the expiration of the period for response indicated in the Office action mailed March 14, 2008. Although extensions of time

under 37 CFR 1.136 were available, the three (3) month period for reply indicated in the Office action mailed March 14, 2008 was the period for reply fixed by the Director in accordance with 35 USC 133. However no response to the Office action mailed March 14, 2008 was filed within the period for reply fixed by the Director. Petitioner offers no evidence as to how the delay from the time of abandonment to the office closure at noon on September 11, 2008 was unavoidable. Moreover, petitioner offers no evidence as to how the delay from the time the office re-opened on September 17, 2008 until the filing of the present petition on October 9, 2008 was unavoidable.

Accordingly, absent the required evidence to establish that the entire delay was unavoidable, the petition requesting revival of the present application under the unavoidable provisions of 37 CFR 1.137(a) cannot be granted at this time.

If petitioner cannot supply the evidence necessary to establish that the delay was unavoidable, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." 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 appropriate petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b). Therefore, the circumstances of the delay should be thoroughly investigated in this application before filing a petition under 37 CFR 1.137(b) to ensure that the delay in filing a response was not the result of a deliberate course of action.

Furthermore, 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 $1110.00 extension of time fee submitted with the petition on October 9, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary. Also, the Request for Continued Examination (RCE) fee of $810.00 is unnecessary since prosecution of the present application is not closed within the meaning of 37 CFR 1.114(b). This $1920.00 may be applied to the fee required for a petition for revival under 37 CFR 1.137(b) in the event that such a petition is filed.

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

David Bucci
Petitions Examiner
Office of Petitions

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In re Application of :
Pandya et al. :
Application No. 10/327,629 : ON PETITION
Filed: December 20, 2002 :
Attorney Docket No. 59.0057 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 19, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 14, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 15, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of an amendment; (2) the petition fee of the petition fee of $1620.00; and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 2163 for appropriate action by the Examiner in the normal course of business on the reply received March 19, 2009.

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

Christopher Bottorff
Petitions Examiner
Office of Petitions

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FEB -3 2004

Paper No. 7

In re Application of	:	
Mark S. Stoll et al.	:	
Serial No. 10/327,644	:	DECISION ON PETITION
Filed: December 20, 2002	:	TO MAKE SPECIAL
For: INDUSTRIAL REEL WRAP WITH	:	
OVERLAPPING END TABS	:	

Applicant's petition, filed June 2, 2003, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Patterson, Thuente, Skaar & Christensen, PA
4800 IDS Center
80 South 8th Street
Minneapolis, MN 55402-2100

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Director's Office
Group 3700

Rebecca Goldman Rudich
MCKENNA LONG & ALDRIDGE LLP
1900 K. Street, N.W.
Washington, DC 20006

In re application of
Shangwon Shi

Serial Number: 10/327665
Filed: December 24, 2002

NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR. 1.313

For: **AUTOMATIC DRYER CONTROL BASED ON LOAD INFORMATION**

The above-identified application is withdrawn from issue after payment of the issue fee to reopen prosecution.

The above-identified applicant is hereby withdrawn from issue.

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

Telephone inquiries should be directed to Ira Lazarus at (703) 308-1935.

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

Richard A. Bertsch, Director
Technology Center 3700
(703) 308-0975

rt/ 11/8/04

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MCKENNA LONG & ALIDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

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OFFICE OF PETITIONS

In re Application of :
Hae Deog Jeong et al :
Application No. 10/327,665 : ON PETITION
Filed: February 24, 2002 :
Attorney Docket No. 9988.012.00

This is a decision on the petition, filed January 26, 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 29, 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 3749 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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MCKENNA LONG & ALIDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

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OFFICE OF PETITIONS

In re Application of :
Hae Deog Jeong et al :
Application No. 10/327,665 : ON PETITION
Filed: February 24, 2002 :
Attorney Docket No. 9988.012.00

CORRECTED DECISION

This is a decision on the petition, filed January 26, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 29, 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]

The decision mailed February 5, 2007 is hereby vacated as of the mail date of this decision.

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

This matter is being referred to Technology Center AU 3749 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : March 24,2008

TO SPE OF : ART UNIT 1791

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/327,671 Patent No.: RE39935 E

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

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

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

_____ 1791
SPE **Art Unit**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent of:	
Denis BABIN	
Patent No.: RE39,935 E	Issued: December 4, 2007
Appl. No.: 10/327,671	Filed: December 19, 2002
For: **Multi-Cavity Injection Molding Apparatus Splitting Melt Near Nozzle Front**	Atty. Docket: MMID 308 REI

OK TO ENTER EL 5/12/08

Request for Certificate of Correction Under 37 C.F.R. § 1.322

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

It is requested that a Certificate of Correction be issued correcting the following printing errors appearing in the above-identified United States patent. The errors noted are errors made by the Office. Thus, no fee is required.

Error	Support in the Specification or Prosecution History
Col 6, lines 46-48 (Claim 8, lines 11-13), **please delete** "*a nozzle seal coupled to the front end of said heated nozzle, said nozzle seal retaining the retaining ring and the nozzle insert in place*" **and replace it with** *--a nozzle seal bridging an insulative air space between said heated nozzle and a mold such that said nozzle seal touches both said heated nozzle and the mold, said nozzle seal being coupled to the front end of said heated nozzle, and said nozzle seal retaining the retaining ring and the nozzle insert in place--*	Amendment and Reply Under 37 C.F.R. §§ 1.111 and 1.173 filed November 19, 2003.

Error	Support in the Specification or Prosecution History
Col. 8, lines 14-16 (Claim 19, lines 12-14), **please delete** "*a nozzle seal coupled to the front end of said heated nozzle, said nozzle seal retaining the retaining ring and the nozzle insert in place*" **and replace it with** *--a nozzle seal bridging an insulative air space between said heated nozzle and a mold such that said nozzle seal touches both said heated nozzle and the mold, said nozzle seal being coupled to the front end of said heated nozzle, and said nozzle seal retaining the retaining ring and the nozzle insert in place--*	Amendment and Reply Under 37 C.F.R. §§ 1.111 and 1.173 filed November 19, 2003.
Col. 8, lines 29-31 (Claim 20, lines 12-14), **please delete** "*a nozzle seal coupled to the front end of said heated nozzle, said nozzle seal retaining the retaining ring and the nozzle insert in place*" **and replace it with** *--a nozzle seal bridging an insulative air space between said heated nozzle and said mold such that said nozzle seal touches both said heated nozzle and said mold, said nozzle seal being coupled to the front end of said heated nozzle, and said nozzle seal retaining the retaining ring and the nozzle insert in place--*	Amendment and Reply Under 37 C.F.R. §§ 1.111 and 1.173 filed November 19, 2003.

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.

A copy of Form PTO/SB/44 is attached with the corrections noted.

Respectfully submitted,

MEDLER FERRO PLLC

Albert L. Ferro
Attorney for Patentee
Registration No. 44,679

8607 Rockdale Lane
Springfield, VA 22153
(410) 788-7684

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : RE39,935 E

APPLICATION NO.: 10/327,671

ISSUE DATE : December 4, 2007

INVENTOR(S) : Denis Babin

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:

Col 6, lines 46-48 (Claim 8, lines 11-13): delete "a nozzle seal coupled to the front end of said heated nozzle, said nozzle seal retaining the retaining ring and the nozzle insert in place" and replace it with --a nozzle seal bridging an insulative air space between said heated nozzle and a mold such that said nozzle seal touches both said heated nozzle and the mold, said nozzle seal being coupled to the front end of said heated nozzle, and said nozzle seal retaining the retaining ring and the nozzle insert in place--

Col. 8, lines 14-16 (Claim 19, lines 12-14): delete "a nozzle seal coupled to the front end of said heated nozzle, said nozzle seal retaining the retaining ring and the nozzle insert in place" and replace it with --a nozzle seal bridging an insulative air space between said heated nozzle and a mold such that said nozzle seal touches both said heated nozzle and the mold, said nozzle seal being coupled to the front end of said heated nozzle, and said nozzle seal retaining the retaining ring and the nozzle insert in place--

Col. 8, lines 29-31 (Claim 20, lines 12-14): delete "a nozzle seal coupled to the front end of said heated nozzle, said nozzle seal retaining the retaining ring and the nozzle insert in place" and replace it with --a nozzle seal bridging an insulative air space between said heated nozzle and said mold such that said nozzle seal touches both said heated nozzle and said mold, said nozzle seal being coupled to the front end of said heated nozzle, and said nozzle seal retaining the retaining ring and the nozzle insert in place--

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

Medler Ferro PLLC
8607 Rockdale Lane
Springfield, VA 22153

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUITE 1400
5956 SHERRY LANE
DALLAS, TX 75225

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Kenichi Hashizume
Application No. 10/327,674
Filed: December 20, 2002
Attorney Docket No. NC31934-9022.011

This is a decision on the petition under 37 CFR 1.137(b), filed August 25, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed February 10, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 11, 2005.

The statement of unintentional delay presented in the petition does not comply with the current rule. Effective December 1, 1997, 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" be submitted. However, the statement presented will be accepted and construed as meaning 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." If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

Pursuant to petitioner's authorization, Deposit Account No. 50-2032 was charged a total of $2,900.00 -- $1,500.00 for the petition to revive an unintentionally abandoned application and $1,400.00 for the issue fee.

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

This matter is being referred to Publishing Division.

Wan Laymon
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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PEARL COHEN ZEDEK LATZER, LLP
1500 BROADWAY, 12TH FLOOR
NEW YORK, NY 10036

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JUN 17 2009

OFFICE OF PETITIONS

In re Application of :
Duncan M. Kitchin :
Application No. 10/327,679 : ON PETITION
Filed: December 24, 2002 :
Attorney Docket No. P-5193-US :

This is a decision on the petition under 37 CFR 1.137(b), filed April 21, 2009, to revive the above-identified application.

The application became abandoned for failure to file a reply to the non-final Office action mailed on February 25, 2008. A Notice of Abandonment was mailed on March 19, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2419 for review of the amendment filed with the present 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

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

PEARL COHEN ZEDEK LATZER, LLP
1500 BROADWAY, 12TH FLOOR
NEW YORK, NY 10036

Mail Date: 04/22/2010

Applicant	: Duncan M. Kitchin	: DECISION ON REQUEST FOR
Patent Number	: 7613160	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/327,679	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/24/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1273** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB -3 2004

Paper No. 7

In re Application of	:	
Richard J. Morris et al.	:	
Serial No. 10/327,690	:	DECISION ON PETITION
Filed: December 20, 2002	:	TO MAKE SPECIAL
For: INDUSTRIAL REEL WRAP WITH	:	
DOUBLE CREASE SEPARATING	:	
CENTER AND TABS	:	

Applicant's petition, filed June 2, 2003, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Patterson, Thuente, Skaar & Christensen, PA
4800 IDS Center
80 South 8th Street
Minneapolis, MN 55402-2100

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 6

ALINE ROY-WEDDERBURN
201 LYNDHURST DRIVE
KITCHENER ONTARIO N2B 1C2
CANADA

COPY MAILED
MAY 13 2004
OFFICE OF PETITIONS

In re Application of :
James Wedderburn :
Application No. 10/327,693 : ON PETITION
Filed: December 24, 2002 :
Attorney Docket No. AW-01-US :

This is a decision on the petition under 37 CFR 1.137(b), filed April 20, 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 February 12, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 13, 2003. A Notice of Abandonment was mailed on December 29, 2004.

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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Sean Liam Kelleher
Kelleher IP, PLLC
16 Peckslip Rd
Carmel NY 10512

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AUG 25 2008

OFFICE OF PETITIONS

In re Application of :
James Wedderburn :
Application No.: 10/327693 : ON PETITION
Filing or 371(c) Date: 12/24/2002 :
Attorney Docket Number: :
AW-01-US :

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 May 27, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final office action, mailed April 11, 2006. 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 July 12, 2006. A Notice of Abandonment was mailed October 18, 2006.

Applicant files the present petition and Amendment in response to the Office action. 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 is accepted as having been unintentionally delayed.

The Power of Attorney

The Power of Attorney filed with the petition has NOT been entered because there is no evidence that the person signing the Power of Attorney is authorized to act in this application. In this regard it is noted that the application papers filed on December 24, 2002 did not include the assignment documents listed on the application transmittal papers. The inventor is James Wedderburn. The Power of Attorney was signed by Aline Roy-Wedderburn. 37 CFR 3.73, Establishing right of assignee to take action, states in relevant part:

(a) The inventor is presumed to be the owner of a patent application, and any patent that may issue therefrom, unless there is an assignment. The original applicant is presumed to be the owner of a trademark application or registration, unless there is an assignment.

> (b) (1) In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either
> (i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment). For trademark matters only, the documents submitted to establish ownership may be required to be recorded pursuant to § 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office.
> For patent matters only, the submission of the documentary evidence must be accompanied by 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).
> (2) The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:
> (i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or
> (ii) Being signed by a person having apparent authority to sign on behalf of the assignee, e.g., an officer of the assignee.
> (c) For patent matters only:
> (1) Establishment of ownership by the assignee must be submitted prior to, or at the same time as, the paper requesting or taking action is submitted.
> (2) If the submission under this section is by an assignee of less than the entire right, title and interest, such assignee must indicate the extent (by percentage) of its ownership interest, or the Office may refuse to accept the submission as an establishment of ownership.

Further to this, the MPEP 324 states:

> V. PARTY WHO MUST SIGN
> The submission establishing ownership must be signed by a party authorized to act on behalf of the assignee. The submission under 37 CFR 3.73(b) may be signed on behalf of the assignee in the following manner if the assignee is an organization (e.g., corporation, partnership, university, government agency, etc.):
> (A) The submission may be signed by a person in the organization having apparent authority to sign on behalf of the organization. 37 CFR 3.73(b)(2)(ii). An officer (chief executive officer, president, vice-president, secretary, or treasurer) is

presumed to have authority to sign on behalf of the organization. The signature of the chairman of the board of directors is acceptable, but not the signature of an individual director. Modifications of these basic titles are accept -able, such as vice-president for sales, executive vice-president, assistant treasurer, vice-chairman of the board of directors. In foreign countries, a person who holds the title "Manager " or "Director " is normally an officer and is presumed to have the authority to sign on behalf of the organization. A person having a title (administrator, general counsel) that does not clearly set forth that person as an officer of the assignee is not presumed to have authority to sign the submission on behalf of the assignee. A power of attorney (37 CFR 1.32(b)(4)) to a patent practitioner to prosecute a patent application executed by the applicant or the assignee of the entire interest does not make that practitioner an official of an assignee or empower the practitioner to sign the submission on behalf of the assignee.

(B) The submission may be signed by any person, if the submission sets forth that the person signing is authorized (or empowered) to act on behalf of the assignee, i.e., to sign the submission on behalf of the assignee. 37 CFR 3.73(b)(2)(i).

(C) The submission may be signed by a person empowered by an organizational resolution (e.g., corporate resolution, partnership resolution) to sign the submission on behalf of the assignee, if a copy of the resolution is, or was previously, submitted in the record.

Where a submission does not comply with (A), (B), or (C) above, evidence of the person's authority to sign will be required.

Before the POA may be entered, evidence of the authority of Aline Roy-Wedderburn to sign the POA is required. 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 3724 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/
Derek L. Woods
Attorney
Office of Petitions

CC: Aline Roy-Wedderburn
President
P.O. Box 23014
Moncton, New Brunswick
CANADA E1A 6S8

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SEAN LIAM KELLEHER
KELLEHER IP PLLC
16 PECKSLIP RD
CARMEL NY 10512

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FEB 17 2010

In re Application of :
James Wedderburn :
Application No. 10/327,693 : DECISION ON PETITION
Filed: December 24, 2002 :
Attorney Docket No. CA-0323/002 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 19, 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 a previously filed amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply 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 3724 for appropriate action by the Examiner in the normal course of business on the reply (amendment) received March 6, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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GRAYBEAL JACKSON HALEY LLP
Suite 350
155-108th Avenue N.E.
Bellevue WA 98004-5973

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OFFICE OF PETITIONS

In re Application of
Villa, et al.
Application No. 10/327,702
Filed: December 20, 2002
Attorney Docket No. 2110-23-3

: 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 July 28, 2005 (certificate of mailing date July 26, 2005), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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

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

The instant petition does not comply with item (1) above.

A reference to add the 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 application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement with respect to patent no. 6,518,147, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

In addition, the amendment should reference the prior-filed application number, not patent number. Petitioner should refer to patent no. 6,518,147 as application no. 09/625,112, filed July 25, 2000, now U.S. Patent No. 6,518,147, issued February 11, 2003.

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

---

[1] *Note* 37 CFR 1.121

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

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

Any questions concerning this matter may be directed to Petitions Attorney E. Shirene Willis at (571) 272-3230.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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GRAYBEAL JACKSON HALEY LLP
Suite 350
155-108th Avenue N.E.
Bellevue WA 98004-5973

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OCT 20 2005

OFFICE OF PETITIONS

In re Application of
Villa, et al.
Application No. 10/327,702
Filed: December 20, 2002
Attorney Docket No. 2110-23-3

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the reconsideration petition under 37 CFR 1.78(a)(3), filed October 7, 2005 (certificate of mailing date October 3, 2005), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the ADS filed concurrently with the instant petition.

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

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

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

The instant pending application was filed on December 20, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an ADS, as required by 37 CFR 1.78(a)(2)(iii).[1]

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any questions concerning this matter may be directed to Petitions Attorney E. Shirene Willis at (571) 272-3230.

---

[1] It is noted that the amendment filed with the present petition is not acceptable because it does not include the relationship between the instant application and application no. 09/625,112, for which applicant is claiming benefit. However, the ADS filed with the present petition does include the relationship between the instant application and patent no. 6,518,147, which is that patent that matured from application no. 09/625,112.

This application is being forwarded to Technology Center Art Unit 2812 for appropriate action on the ADS filed October 7, 2005 (certificate of mailing date October 3, 2005), including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

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

ATTACHMENT: corrected filing receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

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

In re Application of :
Chobotov, et. al. :
Application No. 10/327,711 :
Filed: December 20, 2002 :
Attorney Docket No. 021630-001230US :

DECISION ON REQUEST FOR REVOCATION OF POWER OF ATTORNEY

This is a decision on the Request to Revoke the attorney or agent of record under 37 CFR § 1.36(a), filed by facsimile transmission on December 1, 2005.

The request is **NOT APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper Statement under 37 CFR § 3.73(b) is required.

The request cannot be approved because the Statement under 37 CFR 3.73(b) is incomplete. It is unclear whether or not the assignee has entire, right, title and interest in the above-identified application. Therefore, a complete Statement under 37 CFR 3.73(b) must be submitted. A form for complying with the provisions of 37 CFR 3.73(b) may be found on the USPTO.gov website (Form No. PTO/SB/96).

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 Andrea Smith at 571-272- 3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

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

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

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MAY 2 3 2006
OFFICE OF PETITIONS

In re Application of :
Chobotov, et. al. :
Application No. 10/327,711 :
Filed: December 20, 2002 :
Attorney Docket No. 021630-001230US :

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed by facsimile transmission on December 1, 2005.

The request is **NOT APPROVED**.

The request cannot be accepted at this time, since petitioner failed to provide a signature on the instant request to withdraw.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

cc: Hoffmann & Baron
Daniel A. Scola, Jr., Esq.
1055 Parsippany Boulevard
Parsippany, NJ 07054

Hoffmann & Baron, LLP
6900 Jericho Turnpike
Syosset, NY 11791

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Paper No. 7

KATTEN MUCHIN ZAVIS ROSENMAN
525 WEST MONROE STREET
SUITE 1600
CHICAGO, IL 60661

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AUG 0 4 2004

OFFICE OF PETITIONS

In re Application of :
Kathy Foreman :
Application No. 10/327,750 : ON PETITION
Filed: December 23, 2002 :
Attorney Docket No. 98500-01101 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 6, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 4, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 5, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application is being forwarded to Technology Center AU 3712 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
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WASHINGTON, D.C. 20231
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Paper No. 3

DIANE DUNN McKAY, Esq.
MATTHEWS, COLLINS, SHEPHERD &
McKAY, P.A.
100 THANET CIRCLE, SUITE 306
PRINCETON, NY 08540-3662

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FEB 19 2003

OFFICE OF PETITIONS

In re Application of :
Tanguay et al. :
Application No. 10/327,776 :
Filed: December 23, 2002 :
Attorney Docket No. 4943-102US :

DECISION ON PETITION

This is a decision on the Petition to Correct Filing Date, filed under 37 CFR § 1.10, which is being treated as a petition under 37 CFR 1.10(d), requesting a corrected filing date. The petition requests the application be accorded a filing date of December 23, 2002, rather than the presently accorded filing date of December 26, 2002.

Petitioner alleges that the application was deposited in Express Mail service on December 23, 2002. In support of the allegation, the petition is accompanied, *inter alia*, by a copy of the USPS Track & Confirm web page indicating Express Mail label No. EL869114375US was delivered to this Office on December 24, 2002, and a copy of the USPS Pickup Service Statement for Express Mail, Priority Mail or Parcel Post, which shows Express Mail label No. EL869114375US was picked up by the USPS on December 23, 2002. The file also contains the Patent Application Transmittal Letter for the above-identified application which includes the same Express Mail label No. EL869114375US.

Petitioner has filed the appropriate documentary and corroborating evidence from the USPS demonstrating that December 23, 2002 was the date the correspondence was deposited Express Mail Post Office to Addressee.

In view of the above, the petition is **granted**. No fee is necessary.

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to December 23, 2002.

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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JAN 20 2006

ECKERT, SEAMANS, CHERIN & MELLOT
CORPORATE PLAZA
6TH FLOOR
23 NORTH SEVENTH STREET, ALLENTOWN, PA 18101

In re Application of	:
Christopher D. Bayne et al	:
Serial No.: 10/327,813	: PETITION DECISION
Filed: December 20, 2002	:
Attorney Docket No.: 980049.411	:

This is in response to the petition under 37 CFR 1.144, filed October 5, 2005, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on December 20, 2002, and contained claims 1-138. In a first Office action, mailed September 2, 2004, and remailed February 2, 2005, in view of applicants preliminary amendment not previously considered, the examiner set forth a 3 way restriction requirement, as follows:

Group I – Claims 1-110 and 137-138, drawn to compounds and compositions of Formula I;

Group II – Claims 111 and 124, drawn to an article of manufacture;

Group III – Claims 112-123 and 125-136, drawn to multiple methods of using the compounds and compositions of claim 1.

The examiner also required election of a single compound if Group I or II was elected (i.e. – election of species) or, if Group III was elected a further election among separate methods identified and A-I. The examiner in conjunction therewith required applicant to identify the value of each variable in the structure of Formula I. The examiner further stated that "Examination will then proceed on the elected compound AND the entire scope of the invention encompassing the elected compound as defined by common classification." Also "that the requirement will not be made final until such time as applicant is informed of the full scope of the compounds along with the process of using or making said compound." Further "All compounds falling outside the class(es) and subclass(es) of the elected compound...will be directed to nonelected subject matter and will be withdrawn..." The examiner also advised of rejoinder of process claims having the same scope when product claims were found allowable.

Applicants replied on April 24 2005, electing Group I with traverse. Applicants further identified a species from Claim 65 in response to the election of species requirement. Applicants traversed the requirement for several reasons, particularly the examiner's statements noted above and presumed that the examiner would proceed with examination under the guidelines of M.P.E.P. 803.02.

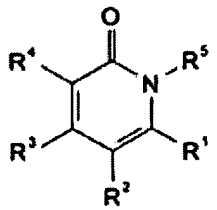
The examiner mailed a first action on the merits to applicants on July 5, 2005, indicating claims 111-136 (Groups II and III) as withdrawn. The examiner acknowledged applicants' election of species and then stated that the claims lack unity of invention under M.P.E.P. 803.02 in that the claims "lack a significant structural element...that defines a contribution over the prior art." The examiner then defined the invention to be examined as those compounds/compositions wherein R^1 is aryl or heteroaryl, R^5 is aryl or herteroaryl and R^2-R^4 are as defined. The examiner responded to applicants' traverse of the requirement, additionally citing burden on the Office to examine the entire scope of the Markush group, but did not made the requirement Final. Claims 1-2, 5-6, 10-12, 29-32, 39-46, 56-58, 62-63, 67-68, 74, 78, 84, 89 and 137 were rejected under 35 U.S.C. 102(b) as anticipated by Elgemeie et al; claims 1-2, 5-6, 29-32, 39-40, 43-46, 56-58, 62-63, 67-68, 74, 76-81, 84, 89 and 137 were rejected under 35 U.S.C. 102(b) as anticipated by Bantick et al; and claims 1-2, 5-6, 29-32, 39-40, 43-46, 48-58, 62-63, 67, 69, 74-75, 89, 92, 94 and 137 were rejected under 35 U.S.C. 102(b) as anticipated by Tonkikh et al. Claims 3-4, 7-9, 13-28, 33-38, 47, 59-61, 64-66, 70-73, 82-83, 85-88, 90-91, 93, 95-110 and 138 were objected to as being dependent from a rejected base claim, but otherwise allowable.

This petition was filed on October 5, 2005, and traverses the "finality" of the restriction requirement as in error based on court decisions, such as In re Weber and M.P.E.P. 803. A reply to the Office action was also received October 5, 2005.

DISCUSSION

It is noted that the examiner did not make the restriction requirement Final, however the requirement for restriction and election of species was repeated thus allowing consideration of the petition based on an examiner's repeated action

An analysis of applicants' claims shows that all claims are directed to compounds having Formula I, as shown below:



Formula I is a substituted 2-pyridinone. Each position other than the keto position may be extensively substituted. Based on applicants' elected species the examiner has limited applicants' scope of claimed compounds to those where the R^1 and R^5 are substituted or unsubstituted aryl or herteroaryl moieties and (as stated by the examiner) R^2-R^4 are as defined. It

is unclear whether this means as defined by the species elected or by all of the values expressed in Claim 1 for these R groups. Limiting R^1 and R^5 to only aryl or heteroaryl precludes their being any type of alkyl, cyclic alkyl, heterocyclic alkyl, etc. Limiting R^2-R^4 to only those variables shown in the species (H, CN and CF_3) likewise limits these variables significantly including the possibility of fused ring systems. Thus the examiner has intimated that only a limited scope of applicants' claimed invention would be examined and allowed. This is improper in view of various court decisions, as cited by petitioner.

It is noted that the examiner has applied art against some claims, but has not required applicants to cancel non-elected species from the claims. Such requirement would be improper in view of the guidelines of M.P.E.P. 803.02. The examiner notes that the claims contain only a pyridinone structure in common and that this does not define a contribution over the prior art. However this is not the criteria set forth in M.P.E.P. 803.02. All that is required is that there be a structure common to all compounds claimed and that it contribute to the activity of the compounds. The examiner argues that pyridinone is not a "substantial structural feature" as required by M.P.E.P. 803.02. The examiner is correct in this statement, but has failed to show that there are any alternative substantial structural features upon which restriction may be based (such as a fused ring structure). Rather the examiner has grouped all compounds together under one roof based on the pyridinone structure and required election of species thereunder. Thus any attempt to require cancellation of non-elected species by the examiner would be improper.

In summary, the examiner's restriction requirement (Groups I-III), as set forth, is proper and is not argues by applicants. The examiner's determination of the scope of the invention to be examined based on the species elected is improper and is withdrawn.

DECISION

The petition is **GRANTED** to the extent indicated above.

The application will be forwarded to the examiner for consideration of applicants' reply filed October 5, 2005, and further action not inconsistent with the above decision.

There is no petition fee for this petition and the petition fee paid of $130.00 will be credited to applicants' Deposit Account No. 19-1090, as directed.

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

George C. Elliott
Director, Technology Center 1600

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OFFICE OF PETITIONS

BROOKS KUSHMAN P.C./LEAR CORPORATION
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD MI 48075-1238

In re Application of :
John E. McConnell et al :
Application No. 10/327,824 : ON PETITION
Filed: December 23, 2002 :
Attorney Docket No. LEAR 1047 PUS :

This is a decision on the petition, filed September 13, 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 14, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2615 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : September 14, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

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SEP 14 2006
OFFICE OF PETITIONS

SUBJECT : Withdrawal from Issue of

Applicant(s) :John E. McConnell et al
Application No. :10/327,824
Filed :December 23, 2002

The above-identified application has been assigned Patent No. 7,113,608 and an issue date of September 26, 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 September 26, 2006:

"All reference to Patent No. 7,113,608 to John E. McConnell et al of Michigan for HEADLINER TRANSDUCER COVERS appearing in the Official Gazette of September 26, 2006 should be deleted since no patent was granted."

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100610

DATE : June 10, 2010

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction on Patent No.: 7,566,561

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:

/ANDREW WANG/
Supervisory Patent Examiner.Art Unit 1652

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LEXMARK INTERNATIONAL, INC.
INTELLECTUAL PROPERTY LAW
DEPARTMENT
740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON, KY 40550-0999

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OFFICE OF PETITIONS

In re Application of :
Bush et al. : DECISION ON PETITION
Application No. 10/327,851 :
Filed: December 23, 2002 :
Atty Docket No. 2002-0004.01 :
:

This is a decision on the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)," filed May 23, 2005 in the above-identified application.

The petition under § 1.181 is **DISMISSED**.

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

Any renewed petition 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)" or "Renewed Petition under 37 CFR § 1.137(b)," as appropriate. Extensions of time under 37 CFR § 1.136(a) are permitted.

The above-identified application became abandoned for failure to file a timely reply to the non-final Office action mailed October 13, 2004. This restriction requirement set forth a shortened statutory period for reply of one (1) month, with extensions of time obtainable under § 1.136(a). No reply was filed within this period and no extensions of time under the provisions of 37 CFR § 1.136(a) were obtained. Accordingly, the

above-identified application became abandoned on November 14, 2004. A courtesy Notice of Abandonment was mailed on May 5, 2005.

The instant petition (with response to the restriction requirement) was timely filed. Therein, petitioners request withdrawal of the holding of abandonment based on evidence that a reply was timely mailed. In support thereof, petitioner submits a copy of their return postcard as mailed to the Office and a copy of the response as they maintain it was timely filed. Alternatively, petitioners include an assertion that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unavoidable and payment for consideration of a petition under § 1.137(a).

As to the request to withdraw the holding of abandonment, petitioners' evidence is not persuasive. A review of the copy of the response submitted on petition reveals that it does not include a certificate of mailing. Accordingly, the response is not entitled to be considered timely filed pursuant to 37 CFR § 1.8. Furthermore, the postcard submitted does not bear a USPTO date-stamp. Thus, the postcard is not *prima facie* evidence that the response was received by the Office on any date. See MPEP 503. The presence of a date entered by petitioners on the postcard only supports a conclusion that applicants intended to mail a response on that date. Nor does the application record support a conclusion that the response was, in fact, timely filed. Absent a persuasive showing that the response was timely filed, withdrawal of the holding of abandonment is not warranted.

As to the request to revive the application based on unavoidable delay, a grantable petition under § 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); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to § 1.137(d). 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. 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.

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 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). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith, 671 F.2d at 538, 213 U.S.P.Q. at 982. Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

Here, petitioners have failed to meet their burden of establishing that the delay was unavoidable. Aside from making a statement of unavoidable delay, petitioners have not set forth facts and circumstances warranting a conclusion that the delay was unavoidable. The arguments presented, which were not sufficient to warrant withdrawal of the holding of abandonment, are not found sufficient to meet the required showing of unavoidable delay. Furthermore, it is well-established that a delay caused by an applicant's failure to file papers or fees in compliance with 37 CFR 1.8 or 1.10 to ensure their timely filing in the USPTO, as well as preserve adequate evidence of such filing, does not constitute "unavoidable" delay. See Krahn, 15 USPQ2d at 1825. Here, applicants did not comply with either 37 CFR 1.8 or 1.10 to ensure timely filing. See MPEP 711.03(c).

Alternative Venue

While the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable, petitioners are not precluded from obtaining relief by filing a

request for reconsideration 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 § 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.

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

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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DEPARTMENT
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OFFICE OF PETITIONS

In re Application of :
Bush et al. : DECISION ON PETITION
Application No. 10/327,851 :
Filed: December 23, 2002 :
Atty Docket No. 2002-0004.01 :
:

This is a decision on the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)," filed June 24, 2005 in the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned effective November 14, 2004 for failure to file a timely reply to the non-final Office action mailed October 13, 2004. A courtesy Notice of Abandonment was mailed on May 5, 2005. By decision mailed June 3, 2005, a prior petition under § 1.137(a) filed May 23, 2005 was dismissed for failure to make an adequate showing of unavoidable delay.

On instant petition, applicants paid the petition fee required pursuant to 37 CFR 1.17(m) and made the required statement of unintentional delay. Furthermore, applicants resubmitted their response to the restriction requirement. Applicants have thereby met all requirements to revive the application.

The response will be considered by the examiner in due course.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Supervisor, Patent Prosecution Services
PIPER RUDNICK LLP
1200 Nineteenth Street, N.W.
Washington, DC 20036-2412

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MAR 12 2007

OFFICE OF PETITIONS

In re Application of :
Ramesh, et al. :
Application No. 10/327,869 : DECISION ON PETITION
Filed: December 26, 2002 :
Attorney Docket No. 3802-002-27 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 23, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply to the final Office action mailed March 23, 2006, which set a three (3) month shortened statutory period for reply. A response was filed on June 23, 2006. By an Advisory Action mailed July 20, 2006, petitioner was informed that the reply of June 23, 2006, did not place the application in condition for allowance. Another response was filed on September 22, 2006, with a request for an extension of time within the third month. By an Advisory Action mailed October 6, 2006, petitioner was again informed that the response did not place the application in condition for allowance. On August 28, 2006, an Advisory Action was issued informing petitioner that the response of July 21, 2006, failed to place the application in condition for allowance. The application became abandoned on September 24, 2006. A Notice of Abandonment was mailed only October 16, 2006.

The Notice of Appeal, filed October 23, 2006, has been entered and made of record. Accordingly, the two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 1.17(c)) runs from the date of this decision.

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

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

The application file is being forwarded to Technology Center 1600, GAU 1635 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

Cc:
Linda R. Judge
DLA Piper LLP
153 Townsend Street
Suite 800
San Francisco, CA 94107

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Paper No. 3

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MAY 15 2003

OFFICE OF DIRECTOR
GROUP

Jason Boyd
P.O. Box 777
Mount Lawley, Australia 6929

In re Application of:	:	
Boyd *et al.*	:	DECISION ON PETITION
Application No. 10/327,919	:	TO MAKE SPECIAL
Filed: December 26, 2002	:	
For: Secure Identification System	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed May 7, 2003, to make the above-identified application special under the accelerated examination procedure set forth in the M.P.E.P. § 708.02, Item XI: Inventions for Counter Terrorism.

The petition is **dismissed**.

International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; and (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. See M.P.E.P. § 708.02, Item XI.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with the M.P.E.P. § 708.02, Item XI, must be accompanied by the petition fee under 37 C.F.R. 1.17(h) and a statement explaining how the invention contributes to countering terrorism.

In this case, the petition lacks a statement explaining how the invention contributes to countering terrorism. Accordingly, the petition must be dismissed.

Should petitioner desire reconsideration, petitioner should file a renewed petition providing the information as set out above. No further petition fee is required.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision.

The application is being forwarded to the group Central File and will await action in its regular turn.

Inquiries regarding this decision should be directed to Ed Glick at (703) 308-4858.

Edward J. Glick, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/327,991	12/26/2002	Jung-Joo Kim	KIMJ3015/EM	8632

23364 7590 11/23/2004

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314

EXAMINER	
TSAI, H JEY	

ART UNIT	PAPER NUMBER
2812	

DATE MAILED: 11/23/2004

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

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October 2004

BACON & THOMAS, PLLC
625 Slaters Lane
Fourth Floor
Alexandria, VA 22314

OCT 28 2004

In re Application of:
Jung-Joo KIM
Serial No.: 10/327,991
Filed: December 26, 2002
Attorney Docket No.: KIMJ3015/EM

DECISION WITHDRAWING THE HOLDING OF ABANDONMENT

This is a decision withdrawing the holding of abandonment.

The application was held abandoned for failure to file a proper reply to the Office action mailed on July 30, 2003. A Notice of Abandonment was mailed on August 6, 2004.

On August 19, 2004, applicant filed via facsimile transmission a copy of an amendment/response as well a copy of a stamped return postcard which properly identifies and acknowledges receipt of the amendment/response by the USPTO on August 29, 2003.

A review of the application file record reveals that the above-identified amendment/response having been acknowledged as being received in the USPTO on August 29, 2003 is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states that a postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. Accordingly, it is concluded that the amendment/response was timely received but lost after receipt thereof.

For the above stated reason, the Notice of Abandonment mailed August 6, 2004 is hereby **VACATED** and the holding of abandonment is withdrawn.

The copy of the amendment/response filed on August 13, 2004 is accepted since the amendment/response originally submitted was apparently lost.

The amendment/response will be processed by the Technology Center 2800 support staff and the examiner will prepare an Office action based upon the amendment/response.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

Sharon A. Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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MAY 27 2005

OFFICE OF PETITIONS

In re Application of :
David J. Bonshor :
Application No. 10/328,018 : ON PETITION
Filed: December 26, 2002 :
Attorney Docket No. 1535P01US

This is a decision on the petition, filed May 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 February 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]

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

This matter is being referred to Technology Center AU 3636 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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George A. Loud, Esquire
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OFFICE OF PETITIONS

In re Application of	:	
Sumiya et al.	:	
Application No. 10/328021	:	DECISION
Filing or 371(c) Date: 12/26/2002	:	ON PETITION
Patent No.: 7044742	:	
Issue Date: 05/16/2006	:	
Title of Invention:	:	
EMERGENCY REPORTING APPARATUS	:	

This is a decision on the correspondence entitled "Request for Certificate of Correction," filed November 8, 2006, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction. The request is properly treated as a petition under 37 CFR 3.81(b)[1]. The delay in treating this request is regretted.

The Petition is **granted**.

The petition was accompanied by a certificate of correction as required by 3.81(b), (filed December 13, 2006), and the fee submitted with the present petition. Further, Office assignment records reflect that Kabushikikaisha Equos Research and Kabushikikaisha Shinsangyokaihatsu are the assignees of record. As the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

Derek L. Woods
Attorney
Office of Petitions

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

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

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JUL 25 2005

OFFICE OF PETITIONS

In re Patent No. 6,834,523

Issue Date: December 28, 2004

Application No. 10/328,030

Filed: December 26, 2002

Attorney Docket No. **232194US3**

ON PETITION

This is a decision on the petition filed January 21, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee data on the front page of the above-identified patent and other typographical errors by way of a Certificate of Correction.

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJR.: 07-06

Paper No: __

TIMOTHY CROLL
C/O CONNIE DEL CASTILLO
LSI LOGIC CORPORATION, M/S D-106
1551 MCCARTHY BOULEVARD
MILPITAS CA 95035

COPY MAILED

JUL 17 2006

OFFICE OF PETITIONS

In re Application of :
Suvkhanov, et al. :
Application No. 10/328,066 : DECISION
Filing Date: 23 December, 2002 :
Attorney Docket No.: 02-4468 :

This is a decision on the petition filed on 25 May, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

It is noted that the address of record is different from that on the petition.

If Petitioner desires to receive future correspondence at the address set forth on the petition regarding this application, the appropriate Notice 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.

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on1 November, 2005, with reply due absent extension of time on or before 1 February, 2006;
- the instant application went abandoned after midnight 1 February, 2006;
- it does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed;
- on 25 May, 2006, Petitioner filed the instant petition (with fee), reply in the form of an amendment, and made the statement of unintentional delay.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

---

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

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

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and
(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —
(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;
(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.
(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the

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,[7] and so cannot satisfy the test for diligence and due care.

Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[2] 35 U.S.C. §133 provides:

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

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

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

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

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

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

[7] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

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

As to the Allegation
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

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

The instant application is released to Technology Center 2800 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

cc:
HAROLD C. MOORE
111 MONUMENT CIRCLE
CHASE TOWER/STE. 3250
INDIANAPOLIS, IN 46204-5109

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

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1621 BARBER LANE
MS: D-106
MILPITAS CA 95035

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SEP 21 2007

OFFICE OF PETITIONS

In re Application of
Suvkhanov, et al.
Application No. 10/328,066
Filed: December 23, 2002
Attorney Docket No. 02-4468 //1003-0627
For: IN-SITU METROLOGY SYSTEM AND METHOD FOR MONITORING METALIZATION AND OTHER THIN FILM FORMATION

ON PETITION

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

This application became abandoned for failure to respond to the final Office action mailed, October 5, 2006, which set an extendable three month period for reply. No reply or extensions of time being received, this application became abandoned on January 6, 2007.

Petitioners have submitted a RCE, the $790.00 RCE fee, and an amendment as the submission in reply to the October 5, 2006 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the October 5, 2006 final Office action, the $1,500.00 petition.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office.

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the

petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

After the mailing of this decision the application will be forwarded to Technology Center AU 2813 for consideration of the RCE filed on May 14, 2007.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: JAMES D. WOOD
111 MONUMENT CIRCLE, CHASE TOWER
SUITE 3250
INDIANAPOLIS, IN 46204-5109

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KONRAD RAYNES & VICTOR, LLP
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In re Application of	:	
Luen Kimball Poindexter et al.	:	
Application No. 10/328,072	:	DECISION ON PETITION
Filed: December 23, 2002	:	PURSUANT TO
Attorney Docket No.:	:	37 C.F.R. § 1.181(A)
SVL920065001US3	:	
Title: SYSTEM FOR ENTERPRISE-WIDE WORK FLOW AUTOMATION	:	

This is a decision on the petition filed March 27, 2008, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This petition pursuant to 37 C.F.R. § 1.181(a) is **DISMISSED**.

BACKGROUND

A Notice of Allowance and Issue Fee Due (first notice) was mailed on June 6, 2007, which set a shortened statutory period for reply of three months. A Request for Continued Examination (RCE) was filed on September 6, 2007, along with the associated fee and an Information Disclosure Statement (IDS): this submission was fully responsive to the first notice.[1]

The IDS was considered by the Examiner, and a second Notice of Allowance and Issue Fee Due (second notice) was mailed on October 5, 2007, which set a shortened statutory period for

1 See 37 C.F.R. § 1.313(a): "A petition under this section is not required if a request for continued examination under § 1.114 is filed prior to payment of the issue fee..."

reply of three months. This application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the second notice. No extensions of time are permitted for transmitting formal drawings, issue or publication fees.[2] Accordingly, the above-identified application became abandoned on January 6, 2008. A Notice of Abandonment was mailed on January 29, 2008.

RELEVANT PORTIONS OF THE U.S.C., C.F.R., AND MPEP

35 U.S.C. § 151 sets forth, *in toto*:

> If it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee or a portion thereof, which shall be paid within three months thereafter.
> Upon payment of this sum the patent shall issue, but if payment is not timely made, the application shall be regarded as abandoned. Any remaining balance of the issue fee shall be paid within three months from the sending of a notice thereof, and, if not paid, the patent shall lapse at the termination of this three-month period. In calculating the amount of a remaining balance, charges for a page or less may be disregarded.
> If any payment required by this section is not timely made, but is submitted with the fee for delayed payment and the delay in payment is shown to have been unavoidable, it may be accepted by the Director as though no abandonment or lapse had ever occurred. (Amended July 24, 1965, Public Law 89-83, sec. 4, 79 Stat. 260; Jan. 2, 1975, Public Law 93-601, sec. 3, 88 Stat. 1956; Nov. 29, 1999, Public Law 106-113, sec. 1000(a)(9), 113 Stat. 1501A-582 (S. 1948 sec. 4732(a)(10)(A)); Nov. 29, 1999, Public Law 106-113, sec. 1000(a)(9), 113 Stat. 1501A-582 (S. 1948 sec. 4732(a)(10)(A)).)

37 C.F.R. § 1.134 sets forth, *in toto*:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.

---

2 See MPEP § 710.02(e).

(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

Section 711.03(c)(I)(A) of the MPEP sets forth, *in toto*:

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide

other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

ANALYSIS

With this petition, Applicants have asserted that by submitting the RCE and the IDS in response to the first notice, prior to the payment of the issue fee, Applicants "properly withdrew the application from issue and did not abandon this application."[3] **The petition is silent as to Applicant's failure to respond to the second notice.** This application went abandoned due to Applicant's failure to provide a timely reply to the second notice. Applicant may wish to review the second notice of October 5, 2007 in the image file wrapper. Since Applicant has not made any reference to this third notice, it follows that **he has not established that the holding of abandonment should be withdrawn.**

CONCLUSION

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be

3 Petition, page 3.

submitted by mail[4], hand-delivery[5], or facsimile[6]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[7].

If responding by mail, Applicant is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[8]. All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
6 (571) 273-8300- please note this is a central facsimile number.
7 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
8 Applicant 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, Applicant is reminded that no telephone discussion may be controlling or considered authority for any of Applicant's further action(s).

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DEC 0 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Luen Kimball Poindexter et al.	:	
Application No. 10/328,072	:	DECISION ON RENEWED
Filed: December 23, 2002	:	PETITION PURSUANT TO
Attorney Docket No.:	:	37 C.F.R. § 1.181(A)
SVL920065001US3	:	
Title: SYSTEM FOR ENTERPRISE-WIDE WORK FLOW AUTOMATION	:	

This is a decision on the renewed petition filed October 31, 2008, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This renewed petition pursuant to 37 C.F.R. § 1.181(a) is **DISMISSED**.

BACKGROUND AND PROCEDURAL HISTORY

A Notice of Allowance and Issue Fee Due (first notice) was mailed on June 6, 2007, which set a shortened statutory period for reply of three months. A Request for Continued Examination (RCE) was filed on September 6, 2007, along with the associated fee and an Information Disclosure Statement (IDS): this submission was fully responsive to the first notice.[1]

1 See 37 C.F.R. § 1.313(a): "A petition under this section is not required if a request for continued examination under § 1.114 is filed prior to payment of the issue fee..."

The Examiner considered this IDS, and a second Notice of Allowance and Issue Fee Due (second notice) was mailed on October 5, 2007, which set a shortened statutory period for reply of three months. This application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the second notice. No extensions of time are permitted for transmitting formal drawings, issue or publication fees.[2] Accordingly, the above-identified application became abandoned on January 6, 2008. A Notice of Abandonment was mailed on January 29, 2008.

An original petition pursuant to 37 C.F.R. § 1.181(a) was filed on March 27, 2008, and was dismissed via the mailing of a decision on September 2, 2008, as the petition made no mention of the second notice.

RELEVANT PORTIONS OF THE U.S.C., C.F.R., AND MPEP

35 U.S.C. § 151 sets forth, *in toto*:

> If it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee or a portion thereof, which shall be paid within three months thereafter.
> Upon payment of this sum the patent shall issue, but if payment is not timely made, the application shall be regarded as abandoned. Any remaining balance of the issue fee shall be paid within three months from the sending of a notice thereof, and, if not paid, the patent shall lapse at the termination of this three-month period. In calculating the amount of a remaining balance, charges for a page or less may be disregarded.
> If any payment required by this section is not timely made, but is submitted with the fee for delayed payment and the delay in payment is shown to have been unavoidable, it may be accepted by the Director as though no abandonment or lapse had ever occurred. (Amended July 24, 1965, Public Law 89-83, sec. 4, 79 Stat. 260; Jan. 2, 1975, Public Law 93-601, sec. 3, 88 Stat. 1956; Nov. 29, 1999, Public Law 106-113, sec. 1000(a)(9), 113 Stat. 1501A-582 (S. 1948 sec. 4732(a)(10)(A)); Nov. 29, 1999, Public Law 106-113, sec. 1000(a)(9), 113 Stat. 1501A-582 (S. 1948 sec. 4732(a)(10)(A)).)

37 C.F.R. § 1.134 sets forth, *in toto*:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

---

2 See MPEP § 710.02(e).

37 C.F.R. § 1.135 sets forth, *in toto*:

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

Section 711.03(c)(I)(A) of the MPEP sets forth, *in toto*:

> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

ANALYSIS

With this renewed petition, Petitioner has stated that the second notice of October 5, 2007 was not received at the correspondence address of record. Petitioner has further indicated that a search of the "file jacket and docket record"[3] indicates that this second notice was not received, and has provided a heavily-redacted copy of the records used by the practitioner where the allegedly non-received second notice would have been entered had it been received. It is noted that these records are the firm's master docket.

Petitioner's assertion of non-receipt has not been adequately supported, as will be now pointed out.

Petitioner has established that correspondence from the Office is opened, date-stamped, and forwarded to "another staff person for docketing."[4] This is insufficient to **adequately describe the system used for recording an Office communication received** at

3 Renewed petition, page 2.
4 Renewed petition, page 1.

the correspondence address of record with the USPTO, so as to establish that the **docketing system is sufficiently reliable**.

The petition is silent as to what information is entered into this docketing system, or how this docketing system serves to ensure that the correspondence recorded therein is responded to in a timely manner. Is the docketing system computer-based? Does it generate reports that are distributed to the responsible attorneys/agents? Does it generate periodic reminders prior to the due dates? If so, are these reminders distributed to the responsible attorneys/agents?

Finally, the petition is silent as to any search that might have been performed of the **application contents**, in order to determine if the second notice was received.

CONCLUSION

The time period for filing a second renewed petition is governed by 37 C.F.R. § 1.181(f). Therefore, if reconsideration of this decision is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision, and **extensions of time under 37 C.F.R. § 1.136(a) are not permitted**. The reply should include a cover letter entitled "Second Renewed Petition pursuant to 37 C.F.R. § 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

The second renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[5] hand-delivery,[6] or facsimile.[7] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[8]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

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5 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
6 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
7 (571) 273-8300- please note this is a central facsimile number.
8 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[9] All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

9 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 any of Petitioner's further action(s).

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MAR 0 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Luen Kimball Poindexter et al.	:	
Application No. 10/328,072	:	DECISION ON SECOND RENEWED
Filed: December 23, 2002	:	PETITION PURSUANT TO
Attorney Docket No.:	:	37 C.F.R. § 1.181(A)
SVL920065001US3	:	
Title: SYSTEM FOR ENTERPRISE-	:	
WIDE WORK FLOW AUTOMATION	:	

This is a decision on the second renewed petition filed February 5, 2009, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This second renewed petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**.

BACKGROUND AND PROCEDURAL HISTORY

A Notice of Allowance and Issue Fee Due (first notice) was mailed on June 6, 2007, which set a shortened statutory period for reply of three months. A Request for Continued Examination (RCE) was filed on September 6, 2007, along with the associated fee and an Information Disclosure Statement (IDS): this submission was fully responsive to the first notice.[1]

The Examiner considered this IDS, and a second Notice of Allowance and Issue Fee Due (second notice) was mailed on

1 See 37 C.F.R. § 1.313(a): "A petition under this section is not required if a request for continued examination under § 1.114 is filed prior to payment of the issue fee..."

October 5, 2007, which set a shortened statutory period for reply of three months. This application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the second notice. No extensions of time are permitted for transmitting formal drawings, issue or publication fees.[2] Accordingly, the above-identified application became abandoned on January 6, 2008. A Notice of Abandonment was mailed on January 29, 2008.

An original petition pursuant to 37 C.F.R. § 1.181(a) was filed on March 27, 2008, and was dismissed via the mailing of a decision on September 2, 2008, as the petition made no mention of the second notice.

A renewed petition pursuant to 37 C.F.R. § 1.181(a) was filed on October 31, 2008, and was dismissed via the mailing of a decision on December 8, 2008.

RELEVANT PORTIONS OF THE U.S.C., C.F.R., AND MPEP

35 U.S.C. § 151 sets forth, *in toto*:

> If it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee or a portion thereof, which shall be paid within three months thereafter.
> Upon payment of this sum the patent shall issue, but if payment is not timely made, the application shall be regarded as abandoned. Any remaining balance of the issue fee shall be paid within three months from the sending of a notice thereof, and, if not paid, the patent shall lapse at the termination of this three-month period. In calculating the amount of a remaining balance, charges for a page or less may be disregarded.
> If any payment required by this section is not timely made, but is submitted with the fee for delayed payment and the delay in payment is shown to have been unavoidable, it may be accepted by the Director as though no abandonment or lapse had ever occurred. (Amended July 24, 1965, Public Law 89-83, sec. 4, 79 Stat. 260; Jan. 2, 1975, Public Law 93-601, sec. 3, 88 Stat. 1956; Nov. 29, 1999, Public Law 106-113, sec. 1000(a)(9), 113 Stat. 1501A-582 (S. 1948 sec. 4732(a)(10)(A)); Nov. 29, 1999, Public Law 106-113, sec. 1000(a)(9), 113 Stat. 1501A-582 (S. 1948 sec. 4732(a)(10)(A)).)

37 C.F.R. § 1.134 sets forth, *in toto*:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is

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2 See MPEP § 710.02(e).

required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

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

Section 711.03(c)(I)(A) of the MPEP sets forth, *in toto*:

> 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).
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> the practitioner where the non-received Office action would have been entered had it been received is required.
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> 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).
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> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

ANALYSIS

With the renewed petition, Petitioner stated that the second notice of October 5, 2007 was not received at the correspondence address of record. Petitioner further indicated that a search of the "file jacket and docket record"[3] indicates that this second notice was not received, and provided a heavily-redacted copy of the records used by the practitioner where the allegedly non-received second notice would have been entered had it been received. It is noted that these records constitute the firm's master docket.

With this second renewed petition, Petitioner has established that a search of the application contents indicates that the second notice was not received.[4] Petitioner has further indicated that due dates are entered into an electronic docket

3 Renewed petition, page 2.
4 Second Renewed petition, page 2.

record upon receipt of a communication from the Office,[5] that docket reports are generated and distributed to the responsible attorneys/agents on a monthly basis,[6] and that reminders are contained within these monthly docket reports.[7]

CONCLUSION

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the second Notice of Allowance and Issue Fee Due of October 5, 2007 was not received.

Accordingly, this second renewed petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

PThe Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the second Notice of Allowance and Issue Fee Due of October 5, 2007, and will set a new period for response.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status**.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[8] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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5 Song declaration of facts, paragraph (2)(c) and (2)(c)(iii).
6 Id. at paragraph (2)(d)
7 Id. at paragraph (2)(e).
8 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 any of Petitioner's further action(s).

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IP LAW
555 BAILEY AVENUE , J46/G4
SAN JOSE, CA 95141

Mail Date: 04/20/2010

Applicant	: Luen Kimball Poindexter	: DECISION ON REQUEST FOR
Patent Number	: 7603649	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/328,072	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/23/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1257** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/5/07

Paper No.: —

TO SPE OF : ART UNIT 3679

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/328079 Patent No: 6851226 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: _____

Daniel P Stodola — SPE

3679 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

JAN 29 2008

OFFICE OF PETITIONS

In re Application of :
Rosner :
Application No. 10/328,084 : DECISION ON PETITION
Filed: December 23, 2002 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 450.004 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed December 18, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

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 Director may require additional information where there is a question whether the delay was unintentional.

Applicant may claim the benefit of a provisional application by claiming the benefit of an intermediate copending nonprovisional application. The later-filed application must claim the benefit of the intermediate nonprovisional application under 35 U.S.C. 120, 121, or 365(c); the intermediate application must be filed not later than 12 months after the filing date of the provisional application; and both the later-filed application and the intermediate application must claim the benefit of the provisional application under 35 U.S.C. 119(e) after the filing date of the application, the amendment would not be proper. MPEP 201.11 (II)(A).

This application was not filed within twelve months from the filing date of the provisional application, and there is no indication of an intermediate nonprovisional application that is directly claiming the benefit of the provisional application and filed within 12 months of the

filing date of the provisional application. A review of the record shows that intermediate application nos. 10/205,120, 09/364,992, and 09/609,847 did not contain a benefit claim to provisional application 60/143,146.

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 Alesia M. Brown at (571) 272-3205.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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SEP 2 4 2008

In re Application of :
Rosner :
Application No. 10/328,084 : DECISION ON PETITION
Filed: December 23, 2002 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 450.004 :

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed June 19, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

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

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a

proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications.

37 CFR 1.78(a)(5)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference to each such prior-filed provisional application, identifying it by the provisional application number (consisting of series code and serial number).

The amendment filed December 18, 2006 fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and (a)(5)(i) and is therefore unacceptable. No substitute amendment or supplemental application data sheet has been submitted to date.

The petition makes reference to App. No. 09/364,992. It is unclear if petitioner is seeking to make a benefit claim to said application as to do so would require an amendment to this effect or the presentation of the claim on a supplemental application data sheet. Further, a cursory review of said application does not establish that said application claimed the benefit of provisional App. No. 60/143,146, filed July 12, 1999.

Any renewed petition should include a substitute amendment or application data sheet setting forth the desired benefit claim.

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 Alesia M. Brown at (571) 272-3205.

Anthony Knight
Supervisor
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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HEDMAN & COSTIGAN P.C.
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

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MAR 26 2009

OFFICE OF PETITIONS

In re Application of
Rosner
Application No. 10/328,084
Filed: December 23, 2002
Attorney Docket No. 450.004

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed December 5, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional. The petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional

parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications.

37 CFR 1.78(a)(5)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference to each such prior-filed provisional application, identifying it by the provisional application number (consisting of series code and serial number).

The amendment filed December 5, 2008 fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and (a)(5)(i) and is therefore unacceptable.

The claim is set forth as follows:

> "-- This application is a continuation-in-part of application Serial No. 09/609,847 filed July 5, 2000, now U.S. Patent No. 6,387,361 which claims the benefit of provisional application Serial No. 60/143,146 filed July 12, 1999 and a continuation-in-part of U.S. Patent application Serial No. 09/364,992 filed August 2, 1999, now U.S. Patent No. 6,387,361 and a continuation-in-part of U.S. Patent application Serial No. 09/364,992 filed August 2, 1999. --"

The claim fails because it identifies App. No. 09/609,847 by incorrect patent number. Application No. 09/609,847 matured into U.S. Patent No. 6,683,098.

The claim also fails because App. No. 09/609,847 did not claim the benefit of Provisional App. No. 60/143,146.

It is also noted that a claim to App. No. 09/364,992 is set forth twice within the claim. Furthermore, copendency does not exist between Application No. 09/364,992 and the present application. Application No. 09/364,992 issued as a patent on May 14, 2002 and the present application was not filed until December 23, 2002.

Any renewed petition should include a substitute amendment or application data sheet properly setting forth the desired benefit claim.

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 Alesia M. Brown at (571) 272-3205.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

FRED G. PRUNER, JR.,
TROP PRUNER & HU, P.C.
8554 KATY FREEWAY, STE. 100
HOUSTON, TX 77024

COPY MAILED

OCT 23 2003

OFFICE OF PETITIONS

In re Application of :
Yasuo Kamatani :
Application No. 10/328,100 : NOTICE
Filed: December 23, 2002 :
Attorney Docket No. LSR.0003C4US

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 2653.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JEFFREY R. GARGANO
WALLENSTEIN WAGNER & ROCKEY, LTD.
311 SOUTH WACKER DRIVE, 53RD FLOOR
CHICAGO, IL 60606-6630

COPY MAILED

JUL 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Shuming Wu :
Application No. 10/328,103 :
Filed: December 23, 2002 :
Attorney Docket No. 8385/89019

NOTICE

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

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

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

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

This file is being forwarded to Technology Center AU 3724.

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

UIPE JC67
JUN 14 2004
RECEIVED
JUN 23 2004
OFFICE OF PETITIONS
2004 JUN 18 PM 4:34

Attorney Docket No. 4386 P 026

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Shuming Wu	)	
		)	
Application No.:	10/328,103	)	Art Unit 3724
Confirmation No.:	7659	)	
Filed On:	December 23, 2002	)	Examiner: Jason Prone
		)	
For:	Jig Saw With Laser Alignment System	)	

REQUEST FOR CORRECTION
IN SMALL ENTITY STATUS UNDER 37 C.F.R. § 1.28

Commissioner For Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

06/23/2004 DALLEN 00000005 10328103
01 FC:1461 400.00 OP

Dear Sir:

The status of small entity in the above application was established in good faith, and fees as a small entity were paid in good faith. Applicant's newly appointed attorney, while reviewing the above application file, discovered that such status was established in error. The undersigned has contacted the originally appointed attorney of record and confirmed that erroneous claim of small entity was unintentional and made without deceptive intent Applicant hereby requests that this error be excused under the provisions of 37 C.F.R. § 1.28. Applicant hereby submits the required itemization required under 37 C.F.R. §§ 1.28(c)(1) and (c)(2) as well as the deficiency payment required under 37 C.F.R. § 1.28(c)(2).

Check No. 078669 in the amount of $370.00 was filed with the application on December 23, 2002 to cover the then small entity filing fee. Applicant advises that the original filing fee has been the only fee paid to date as a small entity for this application.

Adjustment date: 07/02/2004 AKELLEY
06/23/2004 DALLEN 00000005 10328103
01 FC:1461 -400.00 OP

Adjustment date: 07/02/2004 AKELLEY
12/30/2002 HMARZI1 00000044 10328103
01 FC:2001 -370.00 OP

07/02/2004 AKELLEY 00000009 10328103
01 FC:1601 770.00 OP

Now, Applicant requests that its entity size be changed to "large entity" and submits Check No. 21015 in the amount of $400.00. This amount is itemized as follows:

Current Fees:

Basic Filing Fee (large entity)	$770.00

Fees Previously Paid:

Basic Filing Fee (small entity)	$370.00
TOTAL AMOUNT NOW DUE	$400.00

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 23-0280. A duplicate copy of this sheet is attached.

Respectfully submitted,

Dated: June 9, 2004

By: Jeffrey R. Gargano

Jeffrey R. Gargano, Reg. No. 38,148
Wallenstein Wagner & Rockey, Ltd.
311 South Wacker Drive, 53rd Floor
Chicago, IL 60606-6630
(312) 554-3300

One of Attorneys for Applicant

CERTIFICATE OF MAILING (37 C.F.R. § 1.8a)
I hereby certify that this correspondence and fee are, on the date shown below, being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on June 10, 2004.

Linda K. Johnson

Linda K. Johnson (202416)

JUN 18 PM 4:34
DIVISION

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 08/13/03 | 2 Serial/Patent # 10/328,116

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal	3	3/3/03	$ 130
X	Petition			$
	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 [ ][ ]--[ ][ ][ ][ ]

10 REASON:

- [ ] Overpayment
- [ ] Duplicate Payment
- [X] No Fee Due (Explanation):

PTO ERROR

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: A. Brown | TITLE: Atty

SIGNATURE: [signature] | PHONE: 305 340

OFFICE:

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [signature] | DATE: 8/4/03

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 of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

#3

PATENT

Attorney Docket No. 00-066
Application Serial No. 09/938,977

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: WALKER et al.

Serial No.: 10/328,116

Filing Date: December 20,2002

For: METHODS AND APPARATUS FOR OUTPUTTING OUTCOMES OF A GAMING DEVICE

Examiner: Not Yet Assigned

Group Art Unit: Not Yet Assigned

Attorney Docket No: 02-023

Customer No.: 22927

RECEIVED
MAR 0 5 2003
OFFICE OF PETITIONS

CERTIFICATE OF TRANSMISSION BY FACSIMILE

I hereby certify that this correspondence is Facsimile Transmitted (fax no. 703.746.9195) to the: Initial Patent Examination Division, Assistant Commissioner for Patents, Washington, D.C. 20231, on March 3, 2003

Dated: 3.3.03 By: V. S. Lellever
Veronika S. Lellever

Attention: Office of Petitions
Assistant Commissioner for Patents
Washington, D.C. 20231

PETITION TO REQUEST ACCEPTANCE OF MISSING PAGE

Dear Examiner:

Responsive to the Notice to File Missing Parts of Nonprovisional Application, Applicants respectfully request acceptance Page 71 of the Application which has been erroneously omitted at time of initial filing.

Adjustment Date: 08/04/2003 AKELLEY 10328116
03/27/2003 MMEKONEN 00000032 500271
01 FC:1460 130.00 CR

Received from < 2035958266 > at 3/3/03 9:56:09 AM [Eastern Standard Time]

PATENT

Attorney Docket No. 00-066
Application Serial No. 09/938,977

Furthermore, Applicants respectfully request that the original filing date of December 20, 2002 be accorded to this case, along with the acceptance of the originally missing Page 71 of the Application.

The Assistant Commissioner is hereby authorized to charge $130.00 petition fee (37 CFR 1.17(h) to Deposit Account No. 50-0271. Order number 02-023. The Assistant Commissioner is further authorized to charge any additional fees which may be required for the submission of this paper, or credit any overpayment to Deposit Account No. 50-0271.

Furthermore, should an extension of time be required, please grant any extension of time which may be required to make this submission timely, and charge any fee for such an extension to Deposit Account No. 50-0271. A duplicate copy of this authorization is enclosed for such purposes.

Upon USPTO's finding that the application is entitled to the filing date of December 20, 2002, Applicants respectfully request a refund of the petition fee. Thank you for your consideration in this matter.

Respectfully submitted,

March 3, 2003
Date

Magdalena M. Fincham
Agent for Applicants
PTO Registration No. 46,085
Walker Digital, LLC
(203) 461-7041/phone
(203) 461-7300/fax

Received from < 2035958266 > at 3/3/03 9:56:09 AM [Eastern Standard Time]

PATENT

Attorney Docket No. 00-066
Application Serial No. 09/938,977

Furthermore, Applicants respectfully request that the original filing date of December 20, 2002 be accorded to this case, along with the acceptance of the originally missing Page 71 of the Application.

The Assistant Commissioner is hereby authorized to charge $130.00 petition fee (37 CFR 1.17(h) to Deposit Account No. 50-0271. Order number 02-023. The Assistant Commissioner is further authorized to charge any additional fees which may be required for the submission of this paper, or credit any overpayment to Deposit Account No. 50-0271.

Furthermore, should an extension of time be required, please grant any extension of time which may be required to make this submission timely, and charge any fee for such an extension to Deposit Account No. 50-0271. A duplicate copy of this authorization is enclosed for such purposes.

Upon USPTO's finding that the application is entitled to the filing date of December 20, 2002, Applicants respectfully request a refund of the petition fee. Thank you for your consideration in this matter.

Respectfully submitted,

March 3, 2003
Date

Magdalena M. Fincham
Agent for Applicants
PTO Registration No. 46,085
Walker Digital, LLC
(203) 461-7041/phone
(203) 461-7300/fax

Received from < 2035958266 > at 3/3/03 9:56:09 AM [Eastern Standard Time]

COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Two Stage Outcomes

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/328,116	12/20/2002	Jay S. Walker	02-023

CONFIRMATION NO. 8541

22927
WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD, CT 06905

File No: 02-023
Attorney: MMF
Due Date: 04-06-03
Docketed: 02-11-03

FORMALITIES LETTER

OC000000009486459

Date Mailed: 02/06/2003

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

The following item(s) appear to have been **omitted** from the application:

- Page(s) **71** of the specification (description and claims).

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and $130.00 petition fee *(37 CFR 1.17(h))*) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental 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 $130.00 petition fee *(37 CFR 1.17(h))* requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

Applicant is advised that generally the filing fee required for an application is the filing fee in effect on the filing date accorded the application and that payment of the requisite basic filing fee on a date later than the filing date of the application requires payment of a surcharge (37 CFR 1.16(e)). To avoid processing delays and payment of

a surcharge, applicant should submit any balance due for the requisite filing fee based on the later filing date being requested when submitting the omitted items(s) and th petition (and petition fee) requesting the later filing date.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b).** In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (*i.e.*, the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabeled drawing figures, is required. A copy of the drawing figures showing the proposed changes in red ink should accompany with any drawing changes . Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$65** for a Small Entity

- **$65** Late oath or declaration Surcharge.

A copy of this notice MUST be returned with the reply.

D McClain

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 1 - ATTORNEY/APPLICANT COPY

Received from < 2035958266 > at 3/3/03 9:56:09 AM [Eastern Standard Time]

35. The method of claim 33, wherein the step of determining a desired characteristic comprises:

an association with access to a bonus feature of the game; and

wherein the step of determining the second set of indicia based on the desired characteristic comprises:

determining a second set of indicia that is associated with access to the bonus feature.

36. The method of claim 33, wherein the step of determining a desired characteristic comprises:

determining at least one indicia included in the first set of indicia; and

wherein the step of determining a second set of indicia comprises:

determining a set of indicia that includes the at least one indicia included in the first set of indicia.

37. The method of claim 33, wherein the step of determining that the first payout is equal to or less than a predetermined amount comprises:

determining that the first payout is zero.

38. The method of claim 33, wherein the step of determining a first set of indicia comprises:

determining an set of indicia that corresponds to a random number generated by a random number generator of the gaming device.

39. The method of claim 33, further comprising:

preventing the first payout from being provided to a player of the gaming device.

40. The method of claim 33, further comprising:

displaying a representation of a character, wherein the character is displayed as changing the first set of indicia into the second set of indicia.

Received from < 2035958266 > at 3/3/03 9:56:09 AM [Eastern Standard Time]

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD, CT 06905

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AUG 0 1 2003

OFFICE OF PETITIONS

In re Application of
Walker, et al.
Application No. 10/328,116
Filed: December 20, 2002
Attorney Docket No.: 02-023

ON PETITION

This decision in response to the "PETITION TO REQUEST ACCEPTANCE OF MISSING PAGE" filed March 3, 2003 and supplemented March 24, 2003. This petition is being treated as a petition to withdraw the Notice to File Missing Parts of Nonprovisional Application ("Notice") mailed February 6, 2003 and accord the instant application a filing date of December 20, 2002.

The application was filed December 20, 2002. The Notice indicated, *inter alia*, that the application had been accorded a filing date but that page 71 of the specification appeared to have been omitted.

The Notice permits applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)).

Petitioner argues that the application as deposited included 72 pages of specification, including page 71. Petitioner has included as proof of mailing and proof of receipt of the page in question a return postcard date stamped by the Office on December 20, 2002. Petitioner has also supplied a copy of page 71 purportedly filed with the application on December 20, 2002.

The original page 71 submitted with the application papers has not been located. However, in view of the evidence presented, the Notice with respect to page 71 of the specification is hereby WITHDRAWN and the petition to accord the application a filing date of December 20, 2002 is GRANTED.

Since the original page 71 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 and has been refunded to petitioner's deposit account.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of December 20, 2002.

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Alesia M. Brown for/

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVID W COLLINS
INTELLECTUAL PROPERTY LAW
SUITE 125B
75 CALLE DE LAS TIENDAS
GREEN VALLEY AZ 85614

COPY MAILED
JUL 14 2004
OFFICE OF PETITIONS

In re Application of :
Canary, et al. :
Application No. 10/328,126 : DECISION ON PETITION
Filed: December 23, 2002 :
Attorney Docket No. 02045A1 :

This is a decision on the "PETITION UNDER 37 CFR 1.53(b) TO CORRECT FILING DATE," filed June 10, 2004, to accord the above-identified application a filing date of December 23, 2002.

The petition is **GRANTED**.

The application was filed on December 23, 2002. However, on March 26, 2003, the Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application". The Notice informed applicants, *inter alia*, that the application had been accorded a filing date. However, the oath or declaration, together with pages 25 and 26 of the specification, appeared to have been omitted.

In response, on April 16, 2003, applicants supplied a copy of the declaration, together with pages 25 and 26 of the specification. Applicants did not provide any proof of their earlier filing, and accordingly, the above-identified application was accorded a filing date of April 16, 2003 with these new pages.

Applicants filed the instant petition on June 10, 2004. Applicants maintain that the application as originally filed included pages 25 and 26, as evidenced by the postcard receipt identifying this application, itemizing "31 Pages of Specification, claims, abstract" as enclosed, bearing a United States Patent and Trademark Office date-stamp of December 23, 2002, and lacking any notation of non receipt of any item listed.

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.

Given that this petition was necessitated by applicants' failure to correctly respond to the Notice to File Missing Parts, the petition fee of $130 will not be refunded.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of December 22, 2002, using the application papers received in the Office on that date and pages 25 and 26 of the specification (and the declaration) as resupplied on petition filed June 10, 2004.

Telephone inquiries related to this decision should be directed to Petitions Attorney Cliff Congo at 703-305-0272.

Patricia Faison-Ball for

Charles Pearson
Director
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20052610

DATE : October 26, 2005

TO SPE OF : ART UNIT 2856

SUBJECT : Request for Certificate of Correction on Patent No.: 6,895,800 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: Hezron Williams — **Art Unit** 2856

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Alexandria, VA 22313-1450
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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

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JUN 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Takeshi Harada, et al. :
Application No. 10/328,170 : ON PETITION
Filed: December 26, 2002 :
Attorney Docket No. 60188-496 :

This is a decision on the petition, filed June 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 May 13, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 3732 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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MW&E

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

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JUN 0 8 2004
OFFICE OF PETITIONS

In re Application of
Takeshi Harada, et al.
Application No. 10/328,170
Filed: December 26, 2002
Attorney Docket No. 60188-496

ON PETITION

This is a decision on the petition, filed June 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 May 13, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 3732 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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MAR 24 2004

STEPHEN B. MAEBIUS
FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of :
Edmund Rossi et al :
Serial No.: 10/328,190 : WITHDRAWAL OF ATTORNEY
Filed: December 26, 2002 :
Attorney Docket No.: 042418-0115 :

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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MICHAEL P MORRIS
BOEHRINGER INGELHEIM CORPORATION
900 RIDGEBURY RD
P O BOX 368
RIDGEFIELD CT 06877-0368

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AUG 27 2007

OFFICE OF PETITIONS

In re Application	:	
Pellerin, et al.	:	
Application No. 10/328,206	:	DECISION ON APPLICATION
Filed: December 23, 2002	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 13/075-2-C1	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT", filed January 31, 2007. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be increased from the currently accorded seventy-six (76) days to three hundred eighty-six (386) days.

For the reasons set forth below, a decision on the request for reconsideration of the patent term adjustment indicated on the patent is being **HELD IN ABEYANCE** until after the actual patent date.

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

On November 1, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is seventy-six (76) days. On

January 31, 2007, Applicants timely[1] submitted the instant application for patent term adjustment.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of seventy-six (76) days based on an adjustment of one hundred ninety-eight (198) days of PTO delay pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by applicants' delays of ninety (90) and thirty-two (32) pursuant to 37 C.F.R. § 1.704(b). All periods of adjustment have been reviewed and found to be correct.

However, applicants assert additional PTO delay for the failure on the part of the Office to issue the patent within three years of its filing. The Office will be able to assess whether or not any additional PTA is accorded once the issue date is established.[2]

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **seventy-six (76) days** (198 days of PTO delay, reduced by 122 (90+32) days of applicant delay).

Receipt of the $200 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

---

[1] Applicants filed the application for patent term adjustment together with the payment of the issue fee.

[2] Applicants should note that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period of pendency before the Office except for periods excluded under 35 U.S.C. (b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A).

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MARK W. HETZLER
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

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JAN 28 2009

OFFICE OF PETITIONS

In re Application of :
Conkright et al. :
Application Number: 10/328254 : ON PETITION
Filing Date: 12/23/2002 :
Attorney Docket Number: :
7060/72819 (086470-9022) :

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.137(a) TO REVIVE AN UNAVOIDABLY ABANDONED APPLICATION, AND IN THE ALTERNATIVE, AN UNINTENTIONALLY ABANDONED APPLICATION UNDER 37 C.F.R. § 1.137(b)," filed on October 26, 2007.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

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

This application became abandoned on December 28, 2006, for failure to timely file a response to the non-final Office action mailed on September 27, 2006, 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 July 3, 2007.

Petitioner asserts unavoidable delay in that the non-final Office action mailed on September 27, 2006 was never received because it was sent to an old correspondence address. Petitioners state that a Power of Attorney was filed May 31, 2005, but was not entered.

Petitioner has filed an amendment in response to the Office action mailed on September 27, 2006, as the required reply.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a

> continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. 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 § 1.17(l);
>
> (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
>
> (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks item (3) above.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

---

[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

At the outset, a review of the official file reveals that a revocation and power of attorney was filed on May 31, 2005, appointing the practitioners associated with Customer Number 22242. However, a close inspection of the Revocation and Power of Attorney filed on May 31, 2005 reveals that it did not include a request to change the correspondence address. Specifically, the section of the Form PTO/SB/80 pertaining to requesting a change in the correspondence address is blank. As such, assuming, *arguendo*, the Revocation and Power of Attorney was timely entered, the correspondence address would not have been changed thereby, and the Office action of September 26, 2007, would still have been mailed to the previously-established correspondence address.

MPEP 601.03 states that the required notification of change of correspondence address need take no particular form. However, it should be provided in a manner calling attention to the fact that a change of address is being made. Thus, the mere inclusion, in a paper being filed for another purpose, of an address which is different from the previously provided correspondence address, without mention of the fact that an address change is being made would not ordinarily be recognized or deemed as instructions to change the correspondence address on the file record.

As the paper filed on May 31, 2005, contained neither the new address intended as the correspondence address, nor a request to change the correspondence address to a specific address, or associated with a customer number or otherwise provided, it is clear that no change of correspondence address was requested.

Accordingly, a grantable petition would require that petitioners show that they were receiving mail at the address of record (*i.e.*, the address to which the Office action mailed on September 27, 2006 was mailed) at the time of mailing of the Office action,

---

[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

but that the Office action mailed on September 27, 2006, was not received.

MPEP 711.03(c) states:

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office

> action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Practitioner has not provided a statement that the non-final Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the non-final Office action was not received.

Additionally, petitioner must provide a copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received.

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.

If petitioner can provide a showing, as described above, that the non-final Office action mailed on September 27, 2006, was not received, petitioner should file a renewed petition under 37 CFR 1.137(a), accompanied by such proof of nonreceipt of the non-final Office action mailed on September 27, 2006.

A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP

does not constitute an "unavoidable" delay.[3] A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (1) the applicant's reliance upon oral advice from Office employees; or (2) the Office's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action.[4]

In summary, the showing of record is that the Office action mailed on September 27, 2006, was not mailed to the proper correspondence address because of a failure of applicants to provide a current correspondence address, and not due to any failure on the part of the Office.

As the showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a), the petition will be dismissed.

Petition Under 37 CFR 1.137(b).[5]

The petition is granted.

The petition fee required as of October 26, 2007, under 37 CFR 1.137(b)(2) of $770.00 (small entity) will be charged to

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[3] Id.

[4] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

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

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

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

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

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

counsel's deposit account, as authorized in the petition filed on October 26, 2007.

Receipt of the revocation and power of attorney filed on May 31, 2005, is acknowledged.

As the present petition states that the Office action mailed on September 27, 2006 should have been mailed to the address associated with petitioner's current counsel, the petition is construed, under the circumstances, to include a change of correspondence address. The correspondence address has been updated. All future correspondence will be mailed to the new address of record.

The application is referred to Technology Center Art Unit 2153 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Notice Regarding Change of Power of Attorney
Notice of Acceptance of Power of Attorney

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/328,254	12/23/2002	Gary W. Conkright	086470-9022

CONFIRMATION NO. 1637

POWER OF ATTORNEY NOTICE

1131
MICHAEL BEST & FRIEDRICH LLP
Two Prudential Plaza
180 North Stetson Avenue, Suite 2000
CHICAGO, IL 60601

Date Mailed: 01/26/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/31/2005.

- 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).

/diwood/

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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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/328,254	12/23/2002	Gary W. Conkright	086470-9022

CONFIRMATION NO. 1637

1131
MICHAEL BEST & FRIEDRICH LLP
Two Prudential Plaza
180 North Stetson Avenue, Suite 2000
CHICAGO, IL 60601

POA ACCEPTANCE LETTER

Date Mailed: 01/26/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/31/2005.

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

/diwood/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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CONNOLLY BOVE LODGE &
HUTZ LLP
P.O. BOX 2207
WILMINGTON, DE 19899

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OFFICE OF PETITIONS

In re Application of

Kelly, et al. :

Application No. 10/328,259 : DECISION ON PETITION

Filed: December 23, 2002 :

Attorney Docket No. 7245-102D3

This is a decision on the petition under 37 CFR 1.137(b), filed August 8, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply in a timely manner to the final Office action mailed January 16, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. The application became abandoned on April 17, 2006. A Notice of Abandonment was mailed on August 4, 2006.

The Request for Continued Examination filed August 8, 2006, is noted and made of record

The application is being forwarded to Technology Center 3700, GAU 3768 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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Moser, Patterson & Sheridan, LLP
Suite 250
350 Cambridge Avenue
Palo Alto CA 94306

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OFFICE OF PETITIONS

In re Application of	:	
LeBlanc et al.	:	DECISION DISMISSING
Application No. 10/328,276	:	PETITION
Filed: December 23, 2002	:	
Attorney Docket No. STL 3295.01	:	

This is a decision on the renewed petition filed August 4, 2003, requesting that the above-identified application be accorded a filing date of December 20, 2002, rather than the presently accorded filing date of December 23, 2002. The petition is properly treated as a petition under 37 CFR 1.10(d). Petitioner obtained a three-month extension of time to reply. Therefore, the petition is timely filed.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on December 20, 2002. A copy of Express Mail Label No. EV156550655US accompanies the petition.

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).

37 CFR 1.10(a)(Emphasis added).

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the

> Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

37 CFR 1.10(d)(Emphasis added).

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in 'Express Mail Post Office to Addressee' service prior to the last scheduled pickup for that day." In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS." Evidence from the USPS may be, for example, the Express Mail Corporate Account Mailing Statement or a statement by an appropriate official of the USPS that according to a USPS record the "date-in" on petitioner's Express Mail receipt is erroneous, accompanied by a copy of the relevant USPS record. Evidence that came into being within one day after the deposit of the correspondence as Express Mail may be, for example, a log book which contains information such as the Express Mail label number; the application number, attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of the log book entry.

In support, petitioner submitted statements from James A. Sheridan and Laura Hulac, indicating that Ms. Hulac deposited the Express Mail package with the USPS on December 20, 2002, prior to the last-pickup because she could not otherwise have been in San Jose to pick-up her car before the auto dealer's close of business. The statements further indicated that Ms. Hulac could not have been in Palo Alto to make the deposit on December 23, 2002, because she was on vacation in South Lake Tahoe on that date, having left on December 21, 2002. A copy of Ms. Hulac's

leave hours accompanies the present petition. Petitioner states that this record was made within one business day of the date of deposit. Lastly, Mr. Sheridan explained that mail box used on December 20, 2002, has since been removed because of unreliability of the pickup from that drop box and entry of documents into the USPS records. Mr. Sheridan stated that a USPS employee refused to provide a statement regarding the unreliability of the mail box.

The Office throughly reviewed the documents and statements submitted with the present petition. The Office notes that the document provided by petitioner indicates that Ms. Hulac took 32 hours of vacation between December 23, 2002 and December 27, 2002. However, it does not provide any specific information that the Express Mail package was deposited with the USPS on December 20, 2002, prior to the last scheduled pickup. In these circumstances when the petitioner is unable to corroborate the date of deposit with the USPS, it is appropriate to retain the filing date as December 23, 2002.

Petitioner's attention is directed to 37 CFR 1.10(b), which states, in part:

> 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.

Therefore, petitioner has failed to submit sufficient corroborating evidence as required by the rule. Accordingly, the petition is **dismissed**.

Telephone inquiries specific to this matter 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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OFFICE OF PETITIONS

In re Application of	:	
CAMBRON et al.	:	
Application No. 10/328,278	:	ON APPLICATION FOR
Filed: 12/23/2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 1033-SS00321	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b) filed July 13, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is two hundred thirty-four (234) days, not two hundred twenty-seven (227) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek 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 three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR

1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the 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 such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office will charge the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b), as authorized.

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

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

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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June 14, 2007

Brian E. Hennessey
KATTEN MUCHIN ROSENMAN, LLP
575 Madison Avenue, 15th Floor
New York, NY 10022-2585

Patent No.: 6,753,817 B2
Application No.: 10/328289
Inventor(s): Masayoshi Aikawa
Issued: June 22, 2004
Title: **MULTI-ELEMENT PLANAR ARRAY ANTENNA**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid,* including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby again **denied**.

Provide the following information as listed below for consideration of your request.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

Virginia Tolbert
For Cecelia Newman
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 4

Applicant : Matsuoka et al.
Appl No.: 10/328,309
Filed: December 23, 2002

DECISION GRANTING PETITION UNDER *37 CFR 1.84*

This decision is in response to the petition filed December 30, 2002 in the above-identified application. Petitioner requests that color drawings be accepted in accordance with 37 C.F.R. 1.84(a)(2).

The petition states that color drawings of Figures 6a and 6b are necessary in order to completely and accurately represent the invention.

The petition complies with 37 C.F.R. 1.84(a)(2) in that it was accompanied by (1) the appropriate fee and (2) three sets of color drawings. The specification further includes the required text language set forth in 37 C.F.R. 1.84 (a)(2)(iii).

The papers filed on December 30, 2002 fulfill the requirements set forth in 37 C.F.R. 1.84(a)(2) and the petition is GRANTED.

Marc Hoff
Supervisory Patent Examiner, Art Unit 2857
Technology Center 2800

SCHLUMBERGER K.K.
2-2-1 FUCHINOBE
SAGAMIHARA-SHI, KANAOAWA-KEN 229-0-006 JP JAPAN

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OFFICE OF PETITIONS

In re Application of
T. Matsuoka, et al.
Application No. 10/328,309
Filed: December 23, 2002
Attorney Docket No. 26.0232 US

ON PETITION

CORRECTED DECISION

This is a decision on the petition under 37 CFR 1.313 filed June 8, 2004, requesting that the above-identified application be withdrawn from issue after payment of the issue fee.

Petitioner requested that the application be withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination) filed on even date. See 37 CFR 1.313(c)(2).

The petition is DISMISSED AS MOOT.

Upon review of the application, it was noted that while the transmittal letter for paying the issue fees was timely submitted on May 11, 2004, the issue fees were not charged to counsel's deposit account as authorized. Therefore, on July 9, 2004 an attempt to collect the issue fees was made; however, it was discovered that counsel's deposit account did not contain sufficient funds to pay the issue fees due.

Since no issue fees have been paid, the filing of a petition under 37 CFR 1.313 is not an appropriate course of action. Consequently the decision mailed July 9, 2004, is hereby VACATED.

The Request for Continued Examination (RCE) filed June 16, 2004, was filed within the period set in the Notice of Allowance and Issue Fee Due mailed April 27, 2004. Accordingly, the application is being referred to Technology Center AU 2857 for appropriate action on the IDS and the RCE filed May 16, 2001.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-9220.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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COPY MAILED

JUL 09 2004

OFFICE OF PETITIONS

In re Application of :
T. Matsuoka, et al. :
Application No. 10/328,309 : ON PETITION
Filed: December 23, 2002 :
Attorney Docket No. 26.0232 US :

This is a decision on the petition, filed June 16, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid 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 2857 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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Intellectual Property and Legal Department
2-2-1 Fuchinobe, Sagamihara-shi
Kanagawa-ken 229-0-006 JP JAPAN

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OFFICE OF PETITIONS

In re Application of :
Henri-Pierre Valero :
Application No. 10/328,311 : ON PETITION
Filed: December 23, 2002 :
Attorney Docket No. 26.0230 US :

This is a decision on the petition, filed May 27, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;

(2) Consideration of a submission pursuant to 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

See Changes to Application Examination and Provisional Application Practice, Interim Rule, 65 Fed. Reg. 14865, 14873 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47, 54 (Apr. 11, 2000).

Petitioner requests that the application be withdrawn from issue to consider a request for continued examination (RCE) under 37 CFR 1.114. However, there is no indication that a RCE was filed. A proper RCE must be filed for further consideration under 37 CFR 1.313(c)(2).

If reconsideration of this decision is desired, a Request for Reconsideration under 37 CFR 1.313(c) must be filed within **ONE MONTH** from the mail date of this decision. No extension of time of this one month time limit can be granted under 37 CFR 1.136(a) or (b). The Request

for Reconsideration must comply with one of the reasons for withdrawal cited in 37 CFR 1.313(c), including all pertinent papers and fees. If a reply is not received within the ONE MONTH time limit, the application will be returned to Publishing Division for processing into a patent. **Applicant is reminded that a petition to withdraw an application from issue must be received and granted prior to the patent issue date.**

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
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

By Fax: (703) 872-9306

Telephone inquiries should be directed to the undersigned at (703) 305-9220.

/Sherry D. Brinkley/

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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SCHLUMBERGER K.K.
INTELLECTUAL PROPERTY AND LEGAL DEPARTMENT
2-2-1 FUCHINOBE, SAGAMIHARA-SHI
KANAGAWA-KEN 229-0-006 JAPAN

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JUN 2 9 2004

OFFICE OF PETITIONS

In re Application of :
Henri-Pierre Valero :
Application No. 10/328,311 : DECISION GRANTING PETITION
Filed: December 23, 2002 : UNDER 37 CFR 313(c)(2)
Attorney Docket No. 26.0230 US :

This is in response to the Request for Continued Examination (RCE) and Information Disclosure Statement, filed June 14, 2004. There is no indication that a renewed petition to withdraw the application from issue pursuant to the provisions of 37 CFR 1.313(c)(2) accompanied these papers. However, the papers submitted will also be construed as a renewed petition to withdraw the instant application from issue pursuant to the provisions of 37 CFR 1.313(c)(2).

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, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 2857 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement filed June 14, 2004.

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
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Schlumberger K.K.
Intellectual Property and Legal Department
2-2-1 Fuchinobe, Sagamihara-shi
Kanagawa-ken 229-0-006 JP JAPAN

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JUL 1 4 2004

OFFICE OF PETITIONS

In re Application of :
Henri-Pierre Valero :
Application No. 10/328,311 : ON PETITION
Filed: December 23, 2002 :
Attorney Docket No. 26.0230 US :

This is a decision in response to the Request for Reconsideration, filed by facsimile transmission on June 30, 2004, requesting that the above-identified application be withdrawn from issue pursuant to 37 CFR 1.313(c)(2).

A review of the record discloses that the application was withdrawn from issue in a decision mailed June 29, 2004, upon the filing of the Request for Continued Examination (RCE) and Information Disclosure Statement (IDS) on June 14, 2004.

Accordingly, the present request for reconsideration is **DISMISSED as moot**.

The application is being referred to Technology Center 2857 for further prosecution.

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Pet. Dec.

10/15/04

In re Application of
WHINNERY, LEROY, et al.
Serial No. 10/328316
Filed: 12 Dec 2002
For: FORMULATION FOR A RIGID POLY-URETHANE FOAM HAVING IMPROVED IMPACT RESISTANCE

NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR 1.313(b)

The above-identified application is withdrawn from issue after payment of the issue fee due to reopening of prosecution. See 37 CFR 1.313 (b).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Jim Seidleck (571) 272-1078.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

JStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

SANDIA CORPORATION
P O BOX 5800
MS-0161
ALBUQUERQUE NM 87185-0161

cc: Niomi Farmer
Tamara Greene
Mary McAskill

UNITED STATES 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

Johnson & Johnson
1 Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

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NOV 1 9 2003

OFFICE OF PETITIONS

In re Application of :
John R. Carson et al. :
Application No. 10/328,317 : ON PETITION
Filed: December 23, 2002 :
Attorney Docket No. ORT 1559 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 22, 2003, to revive the above-identified application.

The petition is GRANTED.

This application became abandoned for failure to reply in a timely manner in reply to the Notice to File Missing Parts of Application (Notice) mailed February 28, 2003, which set a shortened statutory period for reply of Two (2) months from the mail date of the Notice. Accordingly, the application became abandoned on April 29, 2003.

The application file is being forwarded to the Office of Initial Patent Examination Division for further processing.

Telephone inquiries regarding this decision may be directed to the undersigned at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
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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DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE SC 29602-1449

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DEC 19 2008

OFFICE OF PETITIONS

In re Application of
Cheryl A. Mocadlo
Application No. 10/328,338
Filed: December 23, 2002
Attorney Docket No. KCX-600 (17938)

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 6, 2008, 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 November 16, 2007, 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 3761 for appropriate action by the Examiner in the normal course of business on the reply received November 6, 2008.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE, SC 29602-1449

Mail Date: 04/21/2010

Applicant	: Cheryl A. Mocadlo	: DECISION ON REQUEST FOR
Patent Number	: 7626072	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/328,338	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/23/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **442** 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.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,802,769	2004-10-12	10/328,356	2002-12-21	I-0004-002

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	/R. William Graham/	Date (YYYY-MM-DD)	2008-12-11
Name	R. William Graham	Registration Number	33891

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. 6802769
Issue Date: October 12,2004
Application No. 10328356
Filed: December 21,2002
Attorney Docket No. I-0004-002

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 11,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 11,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in 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

William E. Hodge
1939 Saddleview Avenue
P.O. Box 287
Lumby BC V0E 2G0 CA CANADA

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MAR 1 3 2006

OFFICE OF PETITIONS

In re Application of
William HODGE
Application No. 10/328,382
Filed: December 24, 2002

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on January 25, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed on April 27, 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 July 28, 2005. A Notice of Abandonment was mailed on December 8, 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, a Request for Continued Examination (RCE) under 37 CFR 1.114, and the $395 filing fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Accordingly, the reply to the final Office action of April 27, 2005 is accepted as having been unintentionally delayed.

Further review of the record indicates that petitioner has been charged the large entity petition fee of $1500 instead of the small entity petition fee of $750. Accordingly, $750 will be refunded to petitioner by treasury check.

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.

Application No. 10/328,382

The application file is being referred to Technology Center AU 2882 for appropriate action on the RCE and previously filed amendment(s).

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Jeffrey C. Hood
Meyertons Hood Kivlin Kowert & Goetzel PC
P.O. Box 398
Austin TX 78767

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NOV 2 0 2009

OFFICE OF PETITIONS

In re Application of :
Shah et al. :
Application No. 10/328,392 : DECISION ON PETITION
Filed: December 23, 2002 :
Attorney Docket No. 5150-71600 :

This is a decision on the petition, filed August 20, 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 reply to the Notice of Allowance and Fees Due mailed March 3, 2009, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed on June 26, 2009.

Petitioner asserts that the Notice of Allowance and Fees Due dated March 3, 2009 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner. The statement should also describe the system used for recording an Office action received at the correspondence address of record and establish that the docketing system was sufficiently reliable;

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 master docket for the firm docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement. 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 master docket exists, the practitioner should so state and provide other evidence such, as but not limited: to the application file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question

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. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 2174 for remailing the Notice of Allowance and Notice of Allowability of March 3, 2009 and resetting the period for reply.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Attention: Bradley K. Lortz
Gates & Cooper LLP
Howard Hughes Center
6701 Center Drive West, Suite 1050
Los Angeles, CA 90045

Mail Date: 04/21/2010

Applicant	: Randy W. Adair	: DECISION ON REQUEST FOR
Patent Number	: 7658734	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/328,393	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/23/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1264** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

OPPEDAHL AND LARSON LLP
P O BOX 5068
DILLON CO 80435-5068

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APR 0 8 2003

OFFICE OF PETITIONS

In re Application of :
Davis, et al. :
Application No. 10/328,402 : DECISION GRANTING PETITION
Filed: December 23, 2002 :
Attorney Docket No. IMIN.P-002-4 :
For: ASSAYS

This is a decision on the petition entitled " REQUEST TO CORRECT FILING DATE," filed January 27, 2003 (certificate of mailing date January 21, 2003), requesting that the above-identified application be accorded a filing date of December 23, 2002, rather than the presently accorded filing date of December 24, 2002. The petition is being treated as a petition under 37 CFR 1.10(c).

Petitioners contend that the above-identified application was deposited in the United States Postal Service (USPS) Express Mail service on December 23, 2002. In support of this contention, petitioners have supplied with the present petition a copy of Express Mail Receipt No. EL556128386US bearing a "date-in" of December 23, 2002. The original Nonprovisional Patent Application Transmittal found in the application file and resubmitted with the present petition has transcribed on its front page the following Express Mail Receipt Number: EL556128386US.

In view of the above, the petition is **granted**. No fee is associated with this petition.

This application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of **December 23, 2002.**

Thereafter, this application file will be forwarded to Technology Center 1600 for consideration of the paper entitled, "RESPONSE TO NOTICE TO FILE CORRECTED APPLICATION PAPERS," filed February 20, 2003 (certificate of mailing date February 13, 2003), as a preliminary amendment seeking addition of Figures 3-5 based on an incorporation by reference statement that was present upon the initial filing of the application.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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REED SMITH, LLP
TWO EMBARCADERO CENTER
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SAN FRANCISCO CA 94111

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OFFICE OF PETITIONS

In re Application of	:	
Berman, et al.	:	
Application No. 10/328,423	:	DECISION ON PETITION
Filed: December 24, 2002	:	TO WITHDRAW
Attorney Docket No. 356508.00301	:	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 14, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because there remain less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on April 18, 2006.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: ARTHUR BERMAN
10440 BUBB ROAD
SUITE B
CUPERTINO, CA 95014

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OFFICE OF PETITIONS

Brinks Hofer Gilson & Lione
PO Box 10395
Chicago, Illinois 60610

In re Application of
Zurker
Application No. 10/328,428
Filed: December 23, 2002
Attorney Docket No.659-1042(K-C 18,889)

:DECISION DISMISSING PTA
:RECONSIDERATION

This decision is in response to applicant's NOTICE CONCERNING PATENT TERM ADJUSTMENT requesting that the Office review the amount of PTA because 3 days of delay were incorrectly attributed to the applicant and 22 days of applicant were incorrectly not attributed to the applicant as

Applicant's letter regarding PTA is **DISMISSED.**

Applicant's assert that the number of PTA days determined by their analysis may extend the patent by too many days. Applicants assert that the response to missing parts assessed 3 days too much delay relating to the missing parts reply. In addition, applicants assert that the Office should have assessed 22 additional days of delay in the filing of an IDS.

Applicant's assertions are not persuasive. The Office believes that applicants must have been reviewing the wrong patent term adjustment history because there was no reduction for response to missing parts under 37 CFR 1.704(b) nor was there any IDS filed as supplemental response or filed after the mail date of the notice of allowance that may have been a reduction pursuant to 37 CFR 1.704(c)(8) or (c)(10).

After the mailing of this decision, the application will be forwarded to the file repository for storage of the patented file.

The Office thanks applicants for their good faith and candor in bringing alleged PTO errors to the attention of the Office. Under these circumstances, the Office will not assess a fee for the submission of this letter.

Any questions concerning this decision should be directed to Kery A. Fries, Senior Legal Advisor, at 571-272-7757.

Kery A. Fries
Senior Legal Advisor

Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: PTA for 10/328,428

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 3

Robert V. Jambor
Jenner & Block, LLC
One IBM Plaza
Chicago, IL 60611

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MAR 0 5 2003

OFFICE OF PETITIONS

In re Application of
Chuprun et al.
Application No. 10/328,451
Filed: January 14, 2003
Attorney Docket No. 10001-36400

DECISION GRANTING PETITION

This is a decision on the petition filed January 14, 2003, to accord the above-identified application a filing date of January 14, 2003.

On December 23, 2002, the application was deposited.

Petitioner subsequently realized that page 9 of the specification was not filed on December 23, 2002. The present petition supplies page 9 and requests that the date that page 9 is being supplied be the filing date of the application.

In view of the above, the petition is **granted**. The copy of page 9 submitted with the petition will be used for examination purposes.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of January 14, 2003, using the application papers filed on December 23, 2002, and the copy of page 9 of the specification filed on January 14, 2003.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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RISSMAN JOBSE HENDRICKS & OLIVERIO, LLP
ONE STATE STREET, SUITE 800
BOSTON, MA 02109

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OFFICE OF PETITIONS

In re Application of :
ROHALL, et al. :
Application No. 10/328,455 : DECISION ON PETITION
Filed: December 23, 2002 : TO WITHDRAW
Attorney Docket No. **260-145** : 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, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to **RISSMAN JOBSE HENDRICKS & OLIVERIO, LLP** has been revoked by the assignee of the patent application on October 30, 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: **DAVID A. DAGG, ESQ.**
LOTUS AND RATIONAL SOFTWARE
44 CHAPIN ROAD
NEWTON, MA 02459

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OFFICE OF PETITIONS

ISHIMARU & ZAHRT LLP
333 W. EL CAMINO REAL
SUITE 330
SUNNYVALE, CA 94087

In re Patent No. 6,898,720 :
Issued: May 24, 2005 :
Application No.: 10/328,469 : ON PETITION
Filed: December 24, 2002 :
Attorney Docket No: 21-012 :

This is regarding the "Paper Filed Under 37 CFR 1.28(c)" filed September 1, 2006, which will be treated as a petition under 37 CFR 1.28(c).

The petition is **GRANTED.**

By the instant petition, petitioner informs the USPTO that the inventive entity is not eligible for small status. The loss of small entity status is acknowledged and noted in the application file.

Deposit account 50-0374 will be charged $700.00 for the deficient amounts.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 4

ALAN G REGO
WESTMAN CHAMPLIN & KELLY
SUITE 1600 - INTERNATIONAL CENTRE
900 SOUTH SECOND AVENUE
MINNEAPOLIS MN 55402-3319

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APR 2 2 2003

OFFICE OF PETITIONS

In re Application of :
Cronin, et al. :
Application No. 10/328,487 : DECISION ACCORDING STATUS
Filed: December 23, 2002 : UNDER 37 CFR 1.47(a)
Docket No. B04.12-0055 :

This is in response to the petition under 37 CFR 1.47(a), filed December 23, 2002.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on December 23, 2002, without a fully executed oath or declaration. Concurrent with the filing of the application, applicant filed a petition under 37 CFR 1.47(a), to have joint inventors Dennis J. Cronin and Karl G. Drutowski make the application for patent on behalf of themselves and on behalf of joint inventor Andrew P. Mack, who has refused to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

On petition, attorney Alan G. Rego attested that he presented the application papers to Mack on December 17, 2002. However, according to Rego, Mack made an oral refusal to sign the declaration in a telephone conversation on December 19, 2002.

BEST AVAILABLE COPY

The instant petition has been reviewed and determined to be in compliance with 37 CFR 1.47(a). The declaration submitted with the petition has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known addresses supplied on petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 2800, Group Art Unit 2857, for docketing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

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ANDREW P MACK
5608 14TH AVENUE SOUTH
MINNEAPOLIS MN 55417

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APR 2 2 2003

OFFICE OF PETITIONS

In re Application of
Dennis J. Cronin, Karl G. Drutowski,
and Andrew P. Mack
Application No. 10/328,487
Filed: December 23, 2002
Title: MULTI-FUNCTION AIR DATA PROBES EMPLOYING NEURAL NETWORKS FOR DETERMINING LOCAL AIR DATA PARAMETERS

LETTER

Dear Mr. Mack:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 USC 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, agent of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (703) 305-0272. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

Alan G. Rego
Westman, Champlin & Kelly, P.A.
Suite 1600 - International Center
900 Second Avenue South
Minneapolis MN 55402-3319

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SHUMAKER & SIEFFERT, P. A.
1625 RADIO DRIVE
SUITE 300
WOODBURY, MN 55125

Mail Date: 04/20/2010

Applicant	: Ronald Bruce Howes JR.	: DECISION ON REQUEST FOR
Patent Number	: 7584762	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/328,497	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/23/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1715** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070419

DATE : April 19, 2007

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction on Patent No.: 7,085,328

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:

JAY K. PATEL
SUPERVISORY PATENT EXAMINER

SPE: JAY PATEL **Art Unit** 2611

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.:7,085,328
DATED: August 1, 2006
INVENTOR(S):Chia-Liang Lin and Wen-Juh Kang

It is certified that an error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 10,

Line 25, "$R = E[|Re(a_n)^2|/E|[Re](a_n)|]$," should be --$R = E[|Re(a_n)^2|]/E[|Re(a_n)|]$,--.

Line 28, " sign(x) = - 1 for all x > 0," should be --sign(x) = - 1 for all x < 0,--.

Line 30, "the real component" should be --a real component--.

Line 31, "the imaginary component" should be --an imaginary component--.

Line 43, "$f_i^{(n+1)} = f_i^{(n)} + \mu\cdot(R\cdot csign(a_n)-y_n)\cdot s_{n-i}^*$ for all i<>0, $f_0 = 1$" should be -- $f_i^{(n+1)} = f_i^{(n)} + \mu\cdot(R\cdot csign(a_n)-y_n)\cdot s_{n-i}^*$ for all i<>0, $f_0 = 1$--.

Line 60, "$CF = E[|y_n-a_n|^2]$" should be -- $CF = E[|y_n-a_n|^2]$--.

Line 66, "$CF = E[(Re(y_n)^2-R^2)^2 = (Im(y_n)^2-R^2)^2]$" should be --$CF = E[(Re(y_n)^2-R^2)^2 + (Im(y_n)^2-R^2)^2]$--.

MAILING ADDRESS OF SENDER:

SMITH-HILL AND BEDELL, P.C.
16100 N.W. Cornell Road, #220
Beaverton, Oregon 97006

PATENT NO. 7,085,328
ATTORNEY DOCKET AVAN 2540

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: 7,085,328
DATED: August 1, 2006
INVENTOR(S): Chia-Liang Lin and Wen-Juh Kang

It is certified that an error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 11,

Line 2, "$R^2 = E[(Re(a_n)^4]/E[Re(a_n)^2]$" should be -- $R^2 = E[Re(a_n)^4]/E[Re(a_n)^2]$--.

Line 32,"$R = E[|Re(a_n)^2|/E[|Re](a_n)|]$," should be -- $R = E[|Re(a_n)^2|]/E[|Re(a_n)|]$,--.

Line 33, "$csign(a_n) = sign[Re(a_n]+j\cdot sign[Im(a_n)]$," should be -- $csign(a_n) = sign[Re(a_n)+j\cdot sign(Im(a_n)]$,--.

Line 35, "sign(x) = - 1 for all x > 0," should be -- sign(x) = - 1 for all x < 0,--.

Line 36, "the real component" should be -a real component--.

Line 37, "the imaginary component" should be -an imaginary component--.

Line 47, "$f_i^{(n+1)} = f_i^{(n)} + \mu\cdot (R\cdot csigna_n)-y_n)\cdot s_{n-i}$ for all i<>0 , $f_0 = 1$" should be -- $f_i^{(n+1)} = f_i^{(n)} + \mu\cdot (R\cdot csign(a_n)-y_n)\cdot s_{n-i}$ for all i<>0 , $f_0 = 1$--.

Line 57, "f_i^{n+1}" should be --$f_i^{(n+1)}$ --. (Preliminary Amendment filed July 7, 2003, amended claim 10).

MAILING ADDRESS OF SENDER:

SMITH-HILL AND BEDELL, P.C.
16100 N.W. Cornell Road, #220
Beaverton, Oregon 97006

PATENT NO. 7,085,328
ATTORNEY DOCKET AVAN 2540

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: 7,085,328
DATED: August 1, 2006
INVENTOR(S): Chia-Liang Lin and Wen-Juh Kang

It is certified that an error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 12,

Line 45, "$R = E[|Re(a_n)^2|]/E[|Re](a_n)|]$," should be -- $R = E[|Re(a_n)^2|]/E[|Re(a_n)|]$,--.

Line 57, "$\theta_{n+1} = \theta_n + \mu_g \cdot Im[(R \cdot csign(a_n) - y_n) \cdot y_n^*]$" should be -- $\theta_{n+1} = \theta_n + \mu_g \cdot Im[(R \cdot csign(a_n) - y_n) \cdot y_n^*]$--.

Line 61, "$f_i^{(n+1)} = f_i^{(n)} + \mu \cdot (R \cdot csigna_n) - y_n) \cdot s_n^{-*}$ for all i<>0 , $f_0 = 1$" should be -- $f_i^{(n+1)} = f_i^{(n)} + \mu \cdot (R \cdot csign(a_n) - y_n) \cdot s_n^*$ for all i<>0 , $f_0 = 1$--.

Column 13,

Line 3, "f_i^{n+1}" should be --$f_i^{(n+1)}$--.

Line 13, "Fixdenotes" should be --E[x] denotes--.

Line 18, "$CF = E[(Re(y_n)^2 - R^2)^2 + (Im(y_n)^2 - R^2)^2]$" should be --$CF = E[(Re(y_n)^2 - R^2)^2 + (Im(y_n)^2 - R^2)^2$ --.

Line 22, "$R^2 = E[(Re(a_n)^4]/E[Re(a_n)^2]$ " should be -- $R^2 = E[Re(a_n)^4]/E[Re(a_n)^2]$--.

3 of 4

MAILING ADDRESS OF SENDER:

SMITH-HILL AND BEDELL, P.C.
16100 N.W. Cornell Road, #220
Beaverton, Oregon 97006

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: 7,085,328
DATED: August 1, 2006
INVENTOR(S): Chia-Liang Ling and Wen-Juh Kang

It is certified that an error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 13,

Line 48, "$R = E[|Re(a_n)^2|]/E[|Re(a_n)|]$ " should be --$R = E[|Re(a_n)^2|]/E[|Re(a_n)|]$--.

Line 49, "$csign(a_n) = sign[Re(a_n]+j\cdot sign[Im(a_n)],$" should be --$csign(a_n) = sign[Re(a_n)+j\cdot sign(Im(a_n)],$--.

Line 51, "$sign(x) = -1$ for all $x > 0$," should be --$sign(x) = -1$ for all $x < 0$,--.

Line 52, "the real component" should be --a real component--(Claim 19 as originally filed).

Line 53, "the imaginary component" should be --an imaginary component--.

Line 62, "$f_i^{(n+1)} = f_i^{(n)} + \mu\cdot(R\cdot csigna_n)-y_n)\cdot s_{n-i}^*$ for all $i<>0$, $f_0 = 1$" should be -- $f_i^{(n+1)} = f_i^{(n)} + \mu\cdot(R\cdot csign(a_n)-y_n)\cdot s_{n-i}^*$ for all $i<>0$, $f_0 = 1$--.

Column 14,

Line 9, "(QAN)" should be --(QAM)--.

MAILING ADDRESS OF SENDER:

SMITH-HILL AND BEDELL, P.C.
16100 N.W. Cornell Road, #220
Beaverton, Oregon 97006

PATENT NO. 7,085,328
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WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, P.C.
20333 SH 249
SUITE 600
HOUSTON TX 77070

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OFFICE OF PETITIONS

In re Application of	:	
Horowitz et al.	:	DECISION ON PETITION
Application No. 10/328,513	:	
Filed: 23 December, 2002	:	
Atty Docket No. 199-0060US	:	

This is a decision on the petition, filed on 30 March, 2004, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioners.

The petition is **GRANTED**.

Petitioners states that the present nonprovisional application is the subject of a foreign and an international application both filed on 22 December, 2003. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(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 present 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)(i) has been rescinded.

A Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed in this case on 27 September, 2005. However, in view of the nonpublication request filed with the application, the Notice of Allowance mailed in this case did not require the submission of a publication fee. Therefore, in view of the rescinding of the nonpublication request, a Notice of Publication Fee Due is being mailed under separate cover. Petitioner should note that payment of the publication fee is required to be filed within the period set forth in the Notice to avoid abandonment of the application.

A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, setting forth a projected publication date of 16 March, 2006, is enclosed herewith.

The application is being referred to the Office of Publication to await receipt of the issue fee.

Any inquiries concerning this decision may be directed to the undersigned at 571.272.3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

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UNITED STATES DEPARTMENT OF COMMERCE
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Hanley, Flight & Zimmerman, LLC
150 S. Wacker Drive
Suite 2100
Chicago, IL 60606

Mail Date: 04/20/2010

Applicant	: Marius A. Cornea-Hasegan	: DECISION ON REQUEST FOR
Patent Number	: 7593977	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/328,572	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/23/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **934** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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Hanley, Flight & Zimmerman, LLC
150 S. Wacker Drive
Suite 2100
Chicago, IL 60606

Mail Date: 05/17/2010

Applicant : Marius A. Cornea-Hasegan
Patent Number : 7593977
Issue Date : 09/22/2009
Application No: 10/328,572
Filed : 12/23/2002

: 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 **980** 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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ALEXANDRIA, VA 22313-1450
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Joan L. Simunic
Sud – Chemie Inc.
1600 West Hill Street
Louisville, KY 40210

In re Application of	: DECISION GRANTING PETITION
Eric Judek, et al.	: UNDER 37 CFR 1.137(b) AND NOTICE
Application No. 10/328,579	: RESETTING PERIOD FOR REPLY TO
Filed: December 24, 2002	: NONFINAL OFFICE ACTION
Attorney Docket No. 20020816-003	:

This is a decision on the petition, filed January 5, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on November 24, 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 set forth the projected publication date of April 28, 2005 was mailed to applicant on January 21, 2005.

There is no indication that a reply to the final Office action of December 1, 2005 has been filed. The shortened statutory period of three (3) months for reply to the final Office action continues to run. Extensions of time pursuant to the provisions of 37 CFR 1.136(a) are permitted. Failure to timely reply within the period will result, again, in the abandonment of this application.

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 Mr. Scott Cox appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if Mr. Cox desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

This application is being forwarded to Technology Center Art Unit 1773 to await a reply to the final office action.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Scott R. Cox
400 West Market Street, Suite 2200
Louisville, KY 40202

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

THOMAS ROBERT KINGSBURY
THE HOOVER COMPANY
101 EAST MAPLE STREET
NORTH CANTON, OH 44720

COPY MAILED

MAR 2 4 2003

OFFICE OF PETITIONS

In re Application of:	:	
David A. Ferrer	:	
Application No. 10/328,604	:	
Filed: December 23, 2002	:	
Title of Invention: AIR SPRING WITH RESTRAINING CYLINDER COMPUTER	:	DECISION GRANTING STATUS UNDER 37 CFR 1.47(b)

This is in response to a Petition Under 37 C.F.R. 1.47(b), filed with the above-identified application on December 23, 2002, to allow a person to whom an inventor (or inventors) has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application for patent on behalf of and as agent for the inventor(s).

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

Petitioner has demonstrated that the non-signing inventor David A. Ferrer, refuses to join the application after having been presented with the above-identified application and declaration for signature.

As provided in Rule 1.47(b), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for continued processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Mr. David A. Ferrer
17680 Shaelynn Ct.
Westfield, IN 46074

In re Application of:
David A. Ferrer
Application No. 10/328,604
Filed: December 23, 2002
Title of Invention: AIR SPRING WITH RESTRAINING CYLINDER COMPUTER

LETTER

COPY MAILED
MAR 2 4 2003
OFFICE OF PETITIONS

Dear Mr. Ferrer:

You are named as the inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the inventor.

As named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: THOMAS ROBERT KINGSBURY
THE HOOVER COMPANY
101 EAST MAPLE STREET
NORTH CANTON, OH 44720

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
10/328,619	12/23/2002	3751	412	46984.2	2	13	4

CONFIRMATION NO. 1093

CORRECTED FILING RECEIPT

OC000000011905414

22859
INTELLECTUAL PROPERTY GROUP
FREDRIKSON & BYRON, P.A.
4000 PILLSBURY CENTER
200 SOUTH SIXTH STREET
MINNEAPOLIS, MN 55402

Date Mailed: 02/13/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Kristi Pierce, Vergas, MN;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 02/06/2003

Projected Publication Date: 06/24/2004

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Concealed toilet cleaning system

Preliminary Class

004

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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MAILED

AUG 23 2007

TECHNOLOGY CENTER 2100

The Law Office of Kirk D. Williams
PO BOX 61538,
Denver, CO 80206-8538

In re Application of: De Silva et al.
Application No. 10/328,639
Filed: December 24, 2002
Attorney Docket No.: 01928
For: Methods and Apparatus for Longest Common Prefix Based Caching

DECISION ON PETITION

This is a decision on the petition filed on May 21, 2007, to vacate the office action mailed on March 22, 2007. The petition is being treated as a petition under 37 CFR 1.181 to invoke Supervisory Authority with respect to the Office action mailed on May 21, 2007, requesting that (1) the requirement under 37 CFR 1.105 be withdrawn as improper; (2) a new office action/communication be provided.

The Petition is **GRANTED in PART** to the extent indicated below.

RECENT PROSECUTION HISTORY

March 22, 2007	Non-Final Action (FAOM) mailed, with a Requirement under 37 CFR 1.105. Claims 1-18 were rejected under 35 USC 102(e) as being anticipated by Huang et al. (US Patent 6,963,924).
May 21, 2007	Instant petition filed requesting to vacate office action.

RELIEF REQUESTED

The instant petition filed under 37 CFR 1.181 request that the office vacate/reopen prosecution and/or provide another remedy from the office action mailed on March 22, 2007.

OPINION

Petitioner presents the following arguments in support:

1. The request for information under Rule 105 is improper since MPEP 704.11 provides that there "must be a reasonable basis for the information required", and such request "should be narrowly defined", and
2. Office fails to present a prima facie rejection of each and every claim.

ANALYSIS

With respect to item 1 above, MPEP 704.11 states in part:

> There must be a reasonable basis for the information required that would aid in the examination of an application or treatment of some matter. A requirement for information under 37 CFR 1.105 places a substantial burden on the applicant that is to be minimized by clearly focusing the reason for the requirement and the scope of the expected response. Thus, the scope of the requirement should be narrowly defined, and a requirement under 37 CFR 1.105 may only be made when the examiner has a reasonable basis for requiring information. A requirement for information necessary for finding prior art is not a substitute for the examiner performing a search of the relevant prior art; the examiner must make a search of the art according to MPEP § 704.01 and §§ 904 – 904.03.

On careful review of the prosecution history, it is clear that the requirements "to provide any documentation known to qualify as prior art under 35 U.S.C. sections 102 or 103 with respect to the invention as defined by the independent claims and a discussion of relevant passages with respect to the claims" as stated in the 105 requirement in the office action mailed on March 22, 2007, is not consistent with 37 CFR 1.105. Therefore, the 105 requirement required in the office action mailed March 22, 2007 has been vacated. Examiner is referred to MPEP section 704.11(a) for examples of information that may be reasonably required.

Accordingly, the Petition to withdraw requirement under 37 CFR 1.105, is **GRANTED.**

With respect to item 2 above, specifically, applicants argument that "Office fails to present a prima facie rejection of each and every claim", Applicants' attention is drawn to the following section in MPEP chapter 1200, which states in part:

MPEP 1201 [R-3] Introduction
The United States Patent and Trademark Office (Office) in administering the Patent Laws makes many decisions of a *>substantive< nature which the applicant may feel deny him or her the patent protection to which he or she is entitled. The differences of opinion on such matters can be justly resolved only by prescribing and following judicial procedures. **Where the differences of opinion concern the denial of patent claims because of prior art or **>other patentability issues<, the questions thereby raised are said to relate to the merits,** and appeal procedure within the Office and to the courts has long been provided by statute >(35 U.S.C. 134)<.

The line of demarcation between appealable matters for the Board of Patent Appeals and

Interferences (Board) and petitionable matters for the **>Director of the U.S. Patent and Trademark Office (Director)< should be carefully observed. The Board will not ordinarily hear a question **>that< should be decided by the *>Director on petition<, and the *>Director< will not ordinarily entertain a petition where the question presented is **>a matter appealable to the Board<. However, since 37 CFR 1.181(f) states that any petition not filed within 2 months from the action complained of may be dismissed as untimely and since 37 CFR 1.144 states that petitions from restriction requirements must be filed no later than appeal, petitionable matters will rarely be present in a case by the time it is before the Board for a decision. In re Watkinson, 900 F.2d 230, 14 USPQ2d 1407 (Fed. Cir. 1990).

The question of whether the office has failed to provide a prima facie rejection of each and every claim would be an appealable issue consistent with the sections of the MPEP cited above, and hence the petition with respect to a issuing a new office action/communication is **DENIED**.

CONCLUSION

The Petition to withdraw requirement under 37 CFR 1.105, is **GRANTED.**

The Petition requesting that a new office action/communication be provided is **DENIED**.

The petition is **GRANTED in PART**.

The application is returned to examiner's docket to await applicant's response. The period for response continues to run from the mailing date of the Non-Final office action on March 22, 2007.

Jack Harvey, Director
Technology Center 2100
Computer Architecture, Software,
and Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

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HAYNES BEFFEL & WOLFELD LLP
P O BOX 366
HALF MOON BAY, CA 94019

Mail Date: 06/02/2010

Applicant	: Len L. Mizrah	: DECISION ON REQUEST FOR
Patent Number	: 7644433	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/328,640	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/23/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1022** 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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FEHR LAW FIRM
Goldenwest Corporate Center
5025 Adams Avenue, Suite 300
Ogden UT 84403

COPY MAILED
DEC 22 2008

In re Application of
Dennis D. Spiers et al.
Application No. 10/328,648
Filed: December 23, 2002
Attorney Docket No. PSPIDR

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 1, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 5, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed June 5, 2008. Accordingly, the date of abandonment of this application is September 6, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300.00, (2) the petition fee of $810; 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 the Office of Data Management for processing into a patent.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Express Mail Label No. EQ984100875US 12-2-08

DAC (I) FW

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

7590 06/05/2008

FEHR LAW FIRM
Goldenwest Corporate Center
5025 Adams Avenue, Suite 300
Ogden, UT 84403

OIPE DEC 01 2008 PATENT & TRADEMARK OFFICE

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)

(Signature)

(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/328,648	12/23/2002	Dennis D. Spiers	PSPIDR	6715

TITLE OF INVENTION: STORAGE RACK

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	$720	$300	$0	$1020	09/05/2008

EXAMINER	ART UNIT	CLASS-SUBCLASS
NOVOSAD, JENNIFER ELEANORE	3637	211-089010

12/03/2008 EFLORES1 00000001 10328648
01 FC:1504 300.00 OP
02 FC:2501 755.00 OP

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 Fehr Law Firm
2 Thompson E. Fehr
3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

☒ Issue Fee
☒ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): **(Please first reapply any previously paid issue fee shown above)**

☒ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature Thompson E. Fehr Date November 29, 2008

Typed or printed name Thompson E. Fehr Registration No. 31,353

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Express Mail Label No. EQ984100875US

PTO/SB/64 (11-08)
Approved for use through 12/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) PSPIDR

First named inventor: Dennis D. Spiers

Application No.: 10/328,648

Filed: 12/23/2002

Title: Storage Rack

Art Unit: 3637

Examiner: Jennifer Eleanore Novosad

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1.Petition fee

☑ Small entity-fee $ 810.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Fee(s) Transmittal (PTOL-85) (identify type of reply):

☐ has been filed previously on _____.
☑ is enclosed herewith.

12/03/2008 EFLORES1 00000001 10328648
01 FC:2453 810.00 OP

B. The issue fee and publication fee (if applicable) of $ 1,055.00

☐ 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.

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.

Thompson E. Fehr Signature	November 29, 2008 Date
Thompson E. Fehr Typed or printed name	31,353 Registration Number, if applicable
5025 Adams Avenue, Suite 300 Address	801-393-6292 Telephone Number
Ogden, Utah 84403 Address	

Enclosures: ☑ Fee Payment

☑ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

OIPE
DEC 0 1 2008
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Dennis D. Spiers and Larry D. Williams
Serial No.:	10/328,648
Filed:	12/23/2002
For:	Storage Rack
Confirmation No.:	6715
Group Art Unit:	3637
Examiner:	Jennifer Eleanore Novosad
Attorney Docket No.:	PSPIDR

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

EXPRESS MAIL CERTIFICATE

Express Mail Label No. EQ984100875US

Date of Deposit: December 1, 2008

I hereby certify that the following attached

Fee(s) Transmittal (PTOL-85)

is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Thompson E. Fehr

Thompson E. Fehr

OIPE IAP78 DEC. 01 2008 PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Dennis D. Spiers and Larry D. Williams
Serial No.:	10/328,648
Filed:	12/23/2002
For:	Storage Rack
Confirmation No.:	6715
Group Art Unit:	3637
Examiner:	Jennifer Eleanore Novosad
Attorney Docket No.:	PSPIDR

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

EXPRESS MAIL CERTIFICATE

Express Mail Label No. EQ984100875US

Date of Deposit: December 1, 2008

I hereby certify that the following attached

check no. 2345, dated 12/01/2008, in the amount of $1,865.00
to pay the fee ($810.00) for filing a Petition for
Revival of an Application for Patent Abandoned
Unintentionally under 37 CFR 1.137(b),
the publication fee ($300.00), and
the issue fee ($755.00) for a patent
based upon the patent application identified above

is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Thompson E. Fehr

Thompson E. Fehr

OIPE IAP79
DEC 0 1 2008
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Dennis D. Spiers and Larry D. Williams
Serial No.:	10/328,648
Filed:	12/23/2002
For:	Storage Rack
Confirmation No.:	6715
Group Art Unit:	3637
Examiner:	Jennifer Eleanore Novosad
Attorney Docket No.:	PSPIDR

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

EXPRESS MAIL CERTIFICATE

Express Mail Label No. EQ984100875US

Date of Deposit: December 1, 2008

I hereby certify that the following attached

Petition for Revival of an Application for Patent Abandoned
Unintentionally under 37 CFR 1.137(b)

is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Thompson E. Fehr

Thompson E. Fehr

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/24/06

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction on Patent No.: 7043247

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments:

The requested correction does not include new matter and does not change the scope of the claims.

Appeal — 2617

SPE — **Art Unit**

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.
10328662	12/23/2002	CHITRAPU, PRABHAKAR R.	I-2-0339.1US

VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

EXAMINER	
Meless N. Zewdu	
ART UNIT	**PAPER**
2617	20070718

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The requested correction on US patent document (US 7,043,247), submitted on 9/26/06, has been accepted and approved.

Meless Zewdu
Primary examier

Zewdu, Meless

UNITED STATES 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

THOMAS A. WARD
FLIESLER DUBB MEYER & LOVEJOY LLP
Four Embarcadero Center, Fourth Floor
San Francisco CA 94111-4156

COPY MAILED
MAY 17 2006
OFFICE OF PETITIONS

In re Application of :
His-Chin Cheng :
Application No. 10/328,664 : DECISION ON PETITION
Filed: December 23, 2002 : UNDER 37 C.F.R. §1.181
Attorney Docket Number: VICT-01012US1TAW :
Title: HIGH VOLTAGE GENERATOR USING INDUCTOR-BASED CHARGE PUMP FOR AUTOMOTIVE ALTERNATOR VOLTAGE REGULATOR :

This is a decision on the petition filed June 30, 2005, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The Office regrets the period of delay in issuing this decision.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed October 6, 2004, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on January 7, 2005. A notice of abandonment was mailed on June 22, 2005.

With the present petition, Petitioner has asserted that a response was timely submitted on January 6, 2005. Petitioner has provided a copy of this response, and it is noted that it contains a certificate of mailing which is dated January 6, 2005. The response contains the incorrect serial number, art unit and Examiner name, but contains the correct inventor name,

filing date, and title. Petitioner has also included a postcard receipt, which confirms that this response was received in the Office on January 10, 2005.

Petitioner has requested that the holding of abandonment in the above-identified application be withdrawn. It is clear that a response was timely submitted. Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a submission was timely submitted.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment which was received with the present petition can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DAVID B. WALLER
SUITE 214
5677 OBERLIN DRIVE
SAN DIEGO, CA 92121

COPY MAILED

MAY 19 2005

OFFICE OF PETITIONS

In re Application of :
Pandi Veerapandian et al :
Application No. 10/328,670 : ON PETITION
Filed: December 23, 2002 :
Attorney Docket No. AXIOM.1CP2CCPC2 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 27, 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 March 10, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 11, 2004.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: DONALD R. McKENNA
605 FAIRCHILD DRIVE
MOUNTAIN VIEW, CA 94043-2234

UNITED STATES 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

COPY MAILED

MAR 12 2007

OFFICE OF PETITIONS

In re Application of

Masterman, et al. :

Application No. 10/328,677

: DECISION ON PETITION

Filed: December 23, 2002

:

Attorney Docket No. OB-203A

This is a decision on the petition under 37 CFR 1.137(b), filed August 24, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply in a timely manner to the final Office action mailed January 11, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. A response was not received within the allowable period and the application became abandoned on April 12, 2006.

The Request for Continued Examination filed August 24, 2006, is noted and made of record.

The request for an extension of time within the third month filed August 24, 2006, is noted but cannot be granted because it was made outside the maximum statutory period for reply. It is further noted that an extension of time is not necessary in this instance because the application was in an abandoned status at the time the request was made. Deposit account 16-2480 will be refunded $1020.00, accordingly.

The application is being forwarded to Technology Center 3700, GAU 3732 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:0106

DATE : January 31, 2006

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No.: 6790962

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:

Cecilia Tsang

SPE: Cecilia Tsang **Art Unit** 1625

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BRINKS HOFER GILSON & LIONE
PO BOX 10395
CHICAGO IL 60610

COPY MAILED

DEC 0 2 2005

OFFICE OF PETITIONS

In re Application of
Reynolds, et al. : DECISION ON APPLICATION
Application No. 10/328,706 : FOR PATENT TERM ADJUSTMENT
Filed: December 23, 2002 :
Attorney Docket No. 8285/499 :

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(b)", filed October 6, 2005, notifying the Office of an error in Applicants' favor in the initial determination of patent term adjustment under 35 U.S.C. § 154(b).

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance was **seventy (70)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On July 8, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is eighty (80) days.

The Office initially determined a patent term adjustment of eighty (80) days based on an adjustment for PTO delay of forty five (45) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), and thirty-five (35) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. § 1.703(a)(2), reduced by zero (0) days of applicant delay.

Applicants state that the total PTA should be reduced because they filed an amendment on February 8, 2005, not February 3, 2005, as indicated in PAIR. A review of the application file reveals that applicants are correct. Accordingly, applicants should have been assessed five (5) days of applicant delay for the February 8, 2005 amendment, pursuant to 37 C.F.R. § 1.704(b), as the amendment was submitted in response to an Office action mailed November 3, 2004. In addition, the PTO should not have been assessed thirty-five (35) days of delay for the Notice of Allowance mailed July 8, 2005, but rather thirty (30) days.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **seventy (70)** days (75 (45+30) days of PTO delay, reduced by 5 days of applicant delay).

No petition fee was required and none has been charged. The Office thanks Applicants for their good faith and candor in bringing this matter to the attention of the Office.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery A. Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of adjusted PAIR calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Jun-06

KRISTOFER E. ELBING
187 PELHAM ISLAND ROAD
WAYLAND MA 01778

COPY MAILED
JUN 2 0 2006
OFFICE OF PETITIONS

In re Application of :
Lewis et al. :
Application No. 10/328,713 : DECISION ON PETITION
Filed: 23 December, 2002 :
For: SPECTROMETRIC PROCESS :
MONITORING :

This is a decision on the petition filed on 3 May, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 22 August, 2005, for failure to timely reply to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on 21 July, 2005, which set a one (1) month shortened period for reply. No extensions of time under 37 CFR

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

1.136(a) were obtained. Notice of Abandonment was mailed on 28 February, 2006.

Petitioners have filed a corrected amendment as the required reply.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioners **must** notify the Office if this is not a correct interpretation.

This application is being referred to Technology Center Art Unit 2877 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 10

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
48TH FLOOR
333 S. HOPE STREET
LOS ANGELES, CA 90071

COPY MAILED

JAN 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Masestro Alex Gregory :
Application No. 10/328,725 : ON PETITION
Filed: December 23, 2002 :
Attorney Docket No. 09R4-101884 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 17, 2003, 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 30, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on September 30, 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.

It is also noted that the statement of unintentional delay was intended to be signed by applicant's registered attorney James R. Brueggemann, however, the statement is not signed. Since the present petition includes a signature by counsel, the signature on the petition will be construed as the necessary ratification of the unsigned statement.

The application file is being forwarded to the Publishing Division via Technology Center 2800, Art Unit 2837 for consideration to correct the title of the invention.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE, SC 29602-1449

Mail Date: 04/21/2010

Applicant	: Roger B. Quincy III	: DECISION ON REQUEST FOR
Patent Number	: 7582308	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/328,730	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/23/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1169** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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AGILENT TECHNOLOGIES, INC.
INTELLECTUAL PROPERTY ADMINISTRATION, LEGAL DEPT.
P.O. BOX 7599
M/S DL429
LOVELAND, CO 80537-0599

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Schleifer et al. :
Application No. 10/328,733 :
Filed: December 23, 2002 :
Attorney Docket No. 10020983-1 :

This is a decision on the petition under 37 C.F.R. § 1.182, filed March 5, 2004, to change the name of an inventor.

The petition is **GRANTED.**

The name will be changed from Magdalena Anna Ostrowski to Magdalena Anna Bynum.

This matter is now being referred to the Publishing Division for processing into a patent.

Telephone inquiries should be directed to Paralegal Liana Chase at (703) 306-0482. Any telephone inquiries after approximately **September 24, 2004** should be directed to (571) 272-3282.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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ARRIS GROUP C/O STOEL RIVES LLP
201 S. MAIN ST., STE 1100
SALT LAKE CITY UT 84111

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JUN 07 2010

OFFICE OF PETITIONS

In re Application of :

RAPPAPORT, Caryl et al. :
Application No. 10/328,754 : DECISION ON PETITION
Filed: December 23, 2002 : TO WITHDRAW
Attorney Docket No. **42041/218 (19002US17)** : 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 12, 2010.

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 a change of address was not provided.

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

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Commissioner for Patents
United States Patent and Trademark Office
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VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

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OFFICE OF PETITIONS

In re Application of :
Prabhakar R. Chitrapu et al :
Application No. 10/328,791 : DECISION GRANTING PETITION
Filed: December 23, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1-2-0290.1US :

This is a decision on the petition, filed September 25, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 27, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2616 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\Sept10\328791.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.*

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the **PATENT** of:	
	Chitrapu et al.
Patent No.:	7,406,068
Issued:	July 29, 2008
Appln. No.:	10/328,791
Filed:	December 23, 2002
Confirmation No.:	7433
For:	RLAN WIRELESS TELECOMMUNICATION SYSTEM WITH RAN IP GATEWAY AND METHODS

Our File: I-2-0290.1US

Date: November 5, 2008

Approved 12/04/08
T.H.

REQUEST FOR CERTIFICATE OF CORRECTION

Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

A Certificate of Correction under 35 U.S.C. §§ 254, 255 and 37 C.F.R. §§1.322, 1.323 is requested for U.S. Patent No.7,406,068. Correction of the following errors is requested.

ON THE FACE PAGE

At section (54), Title, page 1, left column, line 1, before the word "WIRELESS", delete "TDD-RLAN" and insert therefor --RLAN--.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081204

DATE : November 25, 2008

TO SPE OF : ART UNIT 2416

SUBJECT : Request for Certificate of Correction on Patent No.: 10/328791

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:

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Foley & Lardner, LLP
P.O. Box 80278
San Diego, CA 92138

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MAR 19 2009

OFFICE OF PETITIONS

In re Application of
Gregory Poilasne et al.

Application No. 10/328,799
Filed: December 24, 2002
Attorney Docket No. ETRNS.015CP1

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 February 25, 2009.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to G. Peter Albert, Jr. and all attorneys/agents associated with customer number 30542 have been revoked by the assignee of the patent application on February 18, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Coastal Patent, LLC
P.O. Box 232340
San Diego, CA 92193

UNITED STATES PATENT AND TRADEMARK OFFICE

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HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY
P O BOX 272400
FORT COLLINS CO 80527-2400

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MAY 2 7 2008

In re Application of :
Shidla, et al. :
Application No.: 10/328,805 : DECISION
Filing Date: 23 December, 2002 :
Attorney Docket No. 200205608-1 :

This is a decision on the petition filed on 23 April, 2007, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.).

As set forth below, it appears that Petitioner has satisfied the requirements of the regulation:

BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to the Drawings Requirement of the Notice of Allowance/Allowability and Fees Due mailed on 18 October, 2006, with reply due under a non-extendable deadline on or before 18 January, 2007.

The application went abandoned by operation of law after midnight 18 January, 2007.

The Office mailed a Notice of Abandonment on 19 February, 2007.

On 23 April, 2007, Petitioner filed the instant petition (with fee) alleging unintentional delay under 37 C.F.R. §1.137(b), with, *inter alia*, a reply in the form of Drawing(s), and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2,3]

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

[2] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center/AU (TC/AU) 2138 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[3] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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OFFICE OF PETITIONS

MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
ONE FINANCIAL CENTER
BOSTON, MA 02111

In re Patent No. 6,820,652 :
Issue Date: November 23, 2004 :
Application No. 10/328,811 : NOTICE
Filed: December 24, 2002 :
Attorney Docket No. 35056-518 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

There is no indication that the request is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Charles Gegenheimer appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If, Mr. Gegenheimer desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Gegenheimer 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.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: CHARLES GEGENHEIMER
BATTELLE MEMORIAL INST
505 KING AVE
COLUMBUS, OH 43201

UNITED STATES PATENT AND TRADEMARK OFFICE

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CARGILL, INCORPORATED
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15407 MCGINTY ROAD WEST
WAYZATA, MN 55391

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AUG 16 2006

OFFICE OF PETITIONS

In re Application of :
Jodi Engelson et al :
Application No. 10/328,847 : DECISION ON PETITION
Filed: December 23, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 023829-0203 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 5, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt

accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 1761 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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FISH & RICHARDSON, P.C.
3300 DAIN RAUSCHER PLAZA
60 SOUTH SIXTH STREET
MINNEAPOLIS, MN 55402

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FEB 23 2004

OFFICE OF PETITIONS

In re Application of :
Karl Christian Roediger :
Application No. 10/328,855 : DECISION ON PETITION
Filed: December 24, 2002 :
Attorney Docket No. 13915-037001/ :
2002P10089 :

This is a decision on the "PETITION UNDER 1.53(E)(2) TO GRANT FILING DATE OR, IN THE ALTERNATIVE, SUBMISSION OF DRAWINGS FOR APPLICATION SERIAL NUMBER 10/328/855," filed June 3, 2003. Petitioner request that the Office accord the above-identified application a filing date of December 24, 2002, with figures 2a, 2b, 6a, 6b, 8, 9 and 11-13 as a part of the original application disclosure.

Application papers in the above-identified application were filed on December 24, 2002. However, on April 3, 2003, the Initial Patent Examination Division mailed applicant a NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION. Applicant was thereby notified, *inter alia*, that the application papers had been accorded a filing date; however, figures 2a, 2b, 6a, 6b, 8, 9 and 11-13 described in the specification appeared to have been omitted.

In response, applicant filed the instant petition (and petition fee). Applicant contends that a complete set of drawings, corresponding to those described in the application, was deposited with the application. In support thereof, petitioner submitted a copy of their return postcard from the USPTO. Petitioner also submitted a copy of the 14 sheets of informal drawings, that petitioner maintains were originally filed on December 24, 2002.

Although the evidence is persuasive[1], consideration of petitioner's arguments is not necessary to decide this petition.

---

[1] 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 24, 2002, and the items filed therewith were assigned Application No. 10/328,855; 2) it specifically identifies the items being filed, including "Drawings (informal, 14 sheets)" 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 14 sheets of informal drawings, were filed on December 24, 2002.

A review of the application-as-filed reveals that all of the 14 sheets of informal drawings as re-supplied on petition were originally received in the Office on December 24, 2002. No figures described in the specification were omitted. To the extent that the Notice stated that figures 2a, 2b, 6a, 6b, 8, 9, and 11-13 appeared to have been omitted, the Notice was sent in error and is hereby vacated.

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. 06-1050, as authorized.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of December 24, 2002 using the application papers received in the Office and presently accorded that date; and figures 2a, 2b, 6a, 6b, 8, 9 and 11-13 resubmitted on petition filed June 3, 2003; and
- for indication in Office records that 14 sheets of drawings 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 the undersigned at 703-305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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David Newman Chartered
Post Office Box 956
Indian Head, MD 20640

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OFFICE OF PETITIONS

In re Application of
Paul Baran et al.
Application No. 10/328,868
Filed: December 23, 2002
Attorney Docket No. GBTV01US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 30, 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 Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, "[t]he undersigned attorney is retiring from the practice of law," does not meet any of the conditions set forth in 37 CFR 10.40.

A courtesy copy of this decision is being mailed to applicant.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

There are no pending office actions at this time.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Paul Baran
83 James Avenue
Atherton, CA 94027

cc: David Baran
GOBACKTV, Inc.
937 Hamilton Avenue
Menlo Park, CA 94025

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KENYON & KENYON LLP
RIVERPARK TOWERS, SUITE 600
333 W. SAN CARLOS ST.
SAN JOSE CA 95110

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MAY 17 2007

OFFICE OF PETITIONS

In re Application of :
David S. Soane, et al. :
Application No. 10/328,898 : DECISION ON PETITION
Filed: December 23, 2002 :
Attorney Docket No. 12666/1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 17, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed June 20, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 21, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $750; 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.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the

petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 1615 for appropriate action by the Examiner in the normal course of business on the reply received January 17, 2007.

Irvin Dingle
Petitions Examiner
Office of Petitions

Cc: WILLIAM R. HAULBROOK, PH.D.
GOODWIN PROCTER, LLP
EXCHANGE PLACE
BOSTON, MA 02109-2881

UNITED STATES 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

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1617 BROADWAY, 3RD FLOOR
SANTA MONICA CA 90404

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NOV 0 5 2004

OFFICE OF PETITIONS

In re Application of
Chin Fu Huong
Application No. 10/328,910
Filed: December 24, 2002
Attorney Docket No. 10810791
Title: SUPPORT BASE OF A LIQUID CRYSTAL DISPLAY

DECISION GRANTING
PETITION UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition filed September 8, 2004, pursuant to 37 C.F.R. §1.137(b)[1], to revive 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 a timely manner to the final Office action mailed February 13, 2004, which set a shortened statutory period for reply of three (3) months. On April 12, 2004, an amendment was received. On August 10, 2004, an advisory action was mailed, indicating that the amendment failed the place the application in condition for allowance. No further extensions of time were received. Accordingly, the above-identified application became abandoned on May 14, 2004.

With the instant petition, petitioner has filed the petition fee, a Request for Continued Examination (RCE) under 37 C.F.R. §1.114, as well as the associated fee, an amendment, and has made the proper statement of unintentional delay. The RCE has been accepted as the required reply under 37 C.F.R. §1.137(b)(1). The amendment submitted with the instant petition shall serve as the required submission.

---

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.

As such, the petition is **GRANTED**.

After this decision is mailed, the application will be forwarded to Technology Center 3600 for consideration of the submission under 37 C.F.R. §1.114, the concurrently filed amendment. The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

HOGAN & HARTSON LLP
ONE TABOR CENTER, SUITE 1500
1200 SEVENTEENTH ST
DENVER, CO 80202

In re application of :
Lawrence Mortimer :
Application No.10/328,928 :
Filed: December 24, 2002
For: SYSTEMS AND METHODS FOR PROVIDING PRE-POINT-OF-SALE INCENTIVE MARKETING WITH PRE-PRINTED COUPONS

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed March 19, 2003 to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement. The delay in deciding this petition is regretted.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(h); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed August 6, 2003 completes 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/cps: 12/15/03

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date April 18, 2007

Patent No. : 7,135,040
Inventor(s) : Wang et al.
Issued : November 14, 2006
Title : MEDICAL GUIDE TUBES

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.

For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9380 ext. 123

Barnes & Thornburg LLP
11 South Meridian Street
Indianopolis, Indiana 46204

CBN/arg

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

BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

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JUN 20 2008

OFFICE OF PETITIONS

In re Patent No. 7,135,040 :
Issue Date: November 14, 2006 :
Application No. 10/328,930 : ON PETITION
Filed: December 23, 2002 :
Attorney Docket No. FES-001 :

This is a decision on the petition filed November 28, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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
SITE 400
101 SOUTH SALINA STREET
SYRACUSE, NY 13202

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OFFICE OF PETITIONS

In re Application of	:	
Andrew Longacre Jr., et al	:	
Application No. 10/328,939	:	ON PETITION
Filed: December 23, 2002	:	
Attorney Docket No. 283-361.01	:	

This is a decision on the petition, filed January 4, 2006, and supplemented on January 6, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 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]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2876 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 17, 2006

TO SPE OF : ART UNIT 2876 Michael G. Lee

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/328,939 Patent No.: 7077317B2

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. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: OK to enter. GM

_____

_____

_____

_____

_____ 2876

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 17, 2006

TO SPE OF : ART UNIT 2876 Michael G. Lee

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/326,939 Patent No.: 7077317B2

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. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: OK to enter. DTM

_____

_____

_____

_____

_____ 2876

SPE **Art Unit**

Express Mail No. : EV676907882US

Attorney Docket No.: 283-361.01 PATENT

UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Andrew Longacre, Jr., et al.

Patent No.: 7,077,317 B2 Issued: July 18, 2006

Application No.: 10/328,939 Filed: December 23, 2002

Customer: 20874

Title: Bar Code Reading Apparatus Having One-Dimensional Image Sensor

Attention Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I hereby certify that this paper is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 addressed to **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450** on September 13, 2006 under "EXPRESS MAIL" mailing label number EV676907882US.

Susan L. Pagano

REQUEST FOR CERTIFICATE OF CORRECTION DUE TO PATENT OFFICE ERROR

Sir:

Applicant has noted several typographical errors in the recently issued patent, U.S. Patent No. 7,077,317 B2. These errors include the omission of numerous references cited by the Applicant in several Information Disclosure Statements timely filed in conjunction with the above captioned patent and by the Examiner during prosecution of the Patent.

First, and as to the typographical errata, the title of the Patent is incorrectly listed as "Bar Code Reading Apparatus Having One-Dimensional Image Sensor and Digital Digitizer" and should be changed to --Bar Code Reading Apparatus Having One-Dimensional Image Sensor--.

The Related U.S. Application Data is incorrectly listed as "Continuation of application No. 10/227,889, filed on Aug. 26, 2002, which is a continuation of application

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No. 09/651,162, filed on August 30, 2000, now Pat. No. 6,491,223, which is a continuation of application No. 09/385,597, filed on Aug 30, 1999, which is a continuation-in-part of application No. 08/839,020, filed on April 23, 1997, now Pat No. 5,965,863, which is a continuation-in-part of application No. 08/697,913, filed on Sep. 3, 1996, now Pat. No. 5,900,613." and should be listed as --This application is a divisional of U. S. Patent Application No. 09/385,597 filed August 30, 1999, which is a continuation-in-part of U.S. Patent Application No. 08/839,020 filed April 23, 1997, now U.S. Patent No. 5,965,863, which, in turn, is a continuation-in-part of U.S. Patent Application No. 08/697,913, filed September 3, 1996, which issued as U.S. Patent No. 5,900,613 on May 4, 1999. The priorities of all of the above applications are claimed and the disclosure of each of the above applications is incorporated herein by reference in its entirety.--

In the Abstract, the following mistake has been noted:

1. Line 4. The word "pexels" is incorrect and should be changed to --pixels--.

In the Cross References to Related Applications Section the following mistakes have been noted:

In the Description of the Drawings the following mistakes have been noted:

1. Column 4, Line 44. The word "maybe" is incorrect and should be changed to --may be--.

2. Column 4, Line 49. The word "flowchart" is incorrect and should be changed to --flow chart--.

3. Column 5, Line 20. The word "maybe" is incorrect and should be changed to --may be--.

4. Column 5, Line 21. The words "of the invention" are incorrect and need to be

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removed.

In the Description of the Preferred Embodiments the following mistakes have been noted:

1. Column 8, Line 39. The words "prefer ably" are incorrect and should be changed to --preferably--.

In the Main Program the following mistakes have been noted:

1. Column 9, Line 64. The word "area" is incorrect and should be changed to --are a--.

2. Column 10, Line 38. The word "apart" is incorrect and should be changed to --a part--.

In Menuing the following mistakes have been noted:

1. Column 11, Line 60. The word "maybe" is incorrect and should be changed to --may be--.

2. Column 13, Line 31. The word "maybe" is incorrect and should be changed to --may be--.

3. Column 15, Line 48. The word "Option" is incorrect and should be changed to --option--.

4. Column 16, Line 64. The words "(unchanged). parameter" are incorrect and should be changed to --(unchanged) parameter--.

5. Column 17, Line 24. The word "maybe" is incorrect and should be changed to --may be--.

In Reprogramming the following mistake has been noted:

1. Column 19, Line 7. The words "include-diagnostic" are incorrect and should

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be changed to --include diagnostic--.

In Local Host and Reader Systems Operations the following mistakes have been noted:

1. Column 20, Line 44. The number "90O" is incorrect and should be changed to --900--.

2. Column 21, Line 44. The word "reader's" is incorrect and should be changed to --readers--.

3. Column 22, Line 56. The number "11566" is incorrect and should be changed to --1156--.

4. Column 23, Line 22. The word "ERBM" is incorrect and should be changed to --EROM--.

5. Column 24, Line 22. The words "device. 940" are incorrect and should be changed to --device 940--.

In Scanning-Decoding/Autodiscrimination the following mistakes have been noted:

1. Column 27, Line 55. The word "maybe" is incorrect and should be changed to --may be--.

In Tracking Options the following mistakes have been noted:

1. Column 28, Line 32. The word "Pat." is incorrect and should be changed to --Patent--.

2. Column 30, Line 58 and Line 59. The words "while.decoding" are incorrect and should be changed to --while decoding--.

In Autodiscrimination/Code Options the following mistakes have been noted:

1. Column 32, Line 48 and Line 49. The phrase "described potential" is incorrect

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and should be changed to --described as potential--.

2. Column 34, Line 10. The word "therethrough" is incorrect and should be changed to --there through--.

3. Column 34, Line 40. The word "sine" is incorrect and should be changed to --line--.

4. Column 34, Line 65. The words "was, successful" are incorrect and should be changed to --was successful--.

5. Column 35, Line 59. The words "view, of" are incorrect and should be changed to --view of--.

6. Column 35, Line 67. The word "maybe" is incorrect and should be changed to --may be--.

7. Column 36, Line 10. The words "of the invention" are incorrect and should be removed.

8. Column 39, Line 4. The word "Pat." is incorrect and should be changed to --Patent--.

9. Column 41, Line 66. The word "codes" is incorrect and should be changed to --code--.

10. Column 42, Line 3. The words "21 A" are incorrect and should be changed to --21A--.

11. Column 42, Line 6 and Line 7. The words "FIG. 21These" are incorrect and need to be changed to --FIG. 21. These--.

12. Column 42, Line 45. The words "used Thus" are incorrect and should be changed to --used. Thus--.

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13. Column 47, Line 22. The word "manipulate" is incorrect and should be changed to --manipulates--.

14. Column 49, Line 34 and Line 35. The word "intervals." is incorrect and needs to be changed to --intervals--.

15. Column 50, Line 11. The word "annaratus" is incorrect and should be changed to --apparatus--.

16. Column 50, Line 13. The word "menuin" is incorrect and should be changed to --menuing--.

17. Column 50, Line 14 and Line 15. The words "user determine" are incorrect and should be changed to --user to determine--.

18. Column 50, Line 15. The word "operation" is incorrect and should be changed to --operating--.

19. Column 50, Line 16. The word "conviently" is incorrect and should be changed to --conveniently--.

20. Column 50, Line 33. The word "reprogrammable" is incorrect and should be changed to --reprogramming--.

21. Column 50, Line 48. The words "mentioned mentioned" are incorrect and should be changed to --mentioned--.

22. Column 50, Line 50. The word "reprogrammable" is incorrect and should be changed to --reprogramming--.

23. Column 51, Line 30. The word "nroduced" is incorrect and should be changed to --introduced--.

In Claims the following mistakes have been noted:

SEP 19 2006

1. Column 52, Line 51. The word "capturing" is incorrect and should be changed to --generating--.

2. Column 52, Line 52. The word "captured" is incorrect and should be changed to --generated--.

3. Column 52, Line 59. The words "greater than 1; and" are incorrect and should be changed to --greater than 1, wherein said apparatus further includes circuitry buffering a set of said N-bit values; and--.

4. Column 52, Line 61. The words "the plurality" are incorrect and should be changed to --said buffered set--.

5. Column 54, Line 60 and Line 61. The words "element reading" are incorrect and should be changed to --element; reading--.

6. Column 54, Line 62. The word "sensor." is incorrect and should be changed to --sensor;--.

7. Column 56, Line 35. The word "apparatus" is incorrect and should be changed to --bar code reading device--.

8. Column 56, Line 37. The word "apparatus" is incorrect and should be changed to --bar code reading device--.

9. Column 56, Lines 39 and 40. The words "toward said linear bar code." are incorrect and should be changed to --toward said bar code, said laser light being reflected from said bar code.--

10. Column 56, Line 44. The word "reflecte" is incorrect and should be changed to --reflected--.

11. Column 56, Line 49. The words "claim 33" are incorrect and should be

SEP 19 2006

changed to --claim 31--.

12. Column 57, Line 26. The words "1and" are incorrect and should be changed to --1 and--.

These mistakes were not noted by the Applicant or the Examiner during the prosecution of the above captioned patent, and Applicant wishes at this time to correct these obvious typographical errors in the above captioned Patent.

The errors are believed to be of "minor character" and the correction of these mistakes does not in any way alter nor materially affect the scope or meaning of the patent or the present inventorship.

Applicant, therefore, pursuant to 37 CFR §1.323 and MPEP §1481, requests that a Certificate of Correction be issued in accordance with the form PTO/SB/44 submitted herewith.

SEP 19 2006

Authorization To Charge Necessary Fees

Because the errors resulted from the Office, it is expected that no fee is required. However, the Commissioner is hereby authorized to charge any additional necessary fees associated with this submission, or credit any overpayment, to Deposit Account No. 50-0289.

Respectfully submitted,

Dated: September 13, 2006

George S. Blasiak
Reg. No. 37,283

WALL MARJAMA & BILINSKI LLP
101 South Salina Street, Suite 400
Syracuse, New York 13202
Telephone: (315) 425-9000
Facsimile: (315) 425-9114

Customer No.: 20874
PATENT TRADEMARK OFFICE

SEP 19 2006

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.: 7,077,317 B2

APPLICATON NO.: 10/328,939

ISSUE DATE: July 18, 2006

INVENTOR(S): Andrew Longacre, Jr., 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:

Change the title of the patent from "Bar Code Reading Apparatus Having One-Dimensional Image Sensor and Digital Digitizer" to --Bar Code Reading Apparatus Having One-Dimensional Image Sensor--.

Change the Related U.S. Application Data to --This application is a divisional of U.S. Patent Application No. 09/385,597, filed August 30, 1999, which is a continuation-in-part of U.S. Patent Application No. 08/839,020 filed April 23, 1997, now U.S. Patent No. 5,965,863, which, in turn, is a continuation-in-part of U.S. Patent Application No. 08/697,913, filed September 3, 1996, which issued as U.S. Patent No. 5,900,613 on May 4, 1999. The priorities of all of the above applications are claimed and the disclosure of each of the above applications is incorporated herein by reference in its entirety.--

In line 4 of the Abstract, change "pexels" to --pixels--.

Column 4, line 44, change "maybe" to --may be--; line 49, change "flowchart" to --flow chart--.

Column 5, line 20, change "maybe" to --may be--; line 21, delete "of the invention".

Column 8, line 39, change "prefer ably" to --preferably--.

Column 9, line 64, change "area" to --are a--.

Column 10, line 38, change "apart" to --a part--.

Column 11, line 60, change "maybe" to --may be--.

Column 13, line 31, change "maybe" to --may be--.

Column 15, line 48, change "Option" to --option--.

Column 16, line 64, change "(unchanged). parameter" to --(unchanged) parameter--.

Column 17, line 24, change "maybe" to --may be--.

SEP 1 9 2006

Column 19, line 7, change "include-diagnostic" to --include diagnostic--.

Column 20, line 44, change "90O" to --900--.

Column 21, line 44, change "reader's" to --readers--.

Column 22, line 56, change "11566" to --1156--.

Column 23, line 22, change "ERBM" to --EROM--.

Column 24, line 22, change "device. 940" to --device 940--.

Column 27, line 55, change "maybe" to --may be--.

Column 28, line 32, change "Pat." To --Patent--.

Column 30, lines 58 and 59, change "while.decoding" to --while decoding--.

Column 32, lines 48 and 49, change "described potential" to --described as potential--.

Column 33, line 1, delete "Ser."

Column 34, line 10, change "therethrough" to --there through--; line 40, change "sine" to --line--; line 65, change "decoding was, successful" to --decoding was successful--.

Column 35, line 59, change "view, of" to --view of--; line 67, change "maybe" to --may be--.

Column 36, line 10, delete "of the invention".

Column 39, line 4, change "Pat." to --Patent--.

Column 41, line 66, change "codes" to --code--.

Column 42, line 3, change "21 A" to --21A--; lines 6 and 7, change "FIG.21These" to --FIG.21. These--; line 45, change "is used Thus" to --is used. Thus--.

Column 47, line 22, change "manipulate" to --manipulates--.

Column 49, line 34 and 35, change "intervals." to --intervals--.

Column 50, line 11, change "annaratus" to --apparatus--; line 13, change "menuin" to --menuing--; lines 14 and 15, change "user determine" to --user to determine--; line 15, change "operation" to --operating--; line 16, change "conviently" to --conveniently--; lines 33 and 50, change "reprogrammable" to --reprogramming--; line 48, delete the word "mentioned" once.

Column 51, line 30, change "nroduced" to --introduced--.

Column 52, line 51, claim 1, change "capturing" to --generating--; line 52, change "captured" to --generated--; line 59, change "greater than 1; and" to --greater than 1, wherein said apparatus further includes circuitry buffering a set of said N-bit values; and--; line 61, change "the plurality" to --said buffered set--.

Column 54, lines 60 and 61, claim 26, change "element reading" to --element; reading--; line 62, change "sensor." to --sensor;--.

SEP 19 2001

Column 56, lines 35 and 37, claims 39 and 40, change "apparatus" to --bar code reading device--; lines 39 and 40, claim 40, change "toward said linear bar code." to --toward said bar code, said laser light being reflected from said bar code.--; line 44, claim 41, change "reflecte" to --reflected--; line 49, claim 43, change "claim 33" to --claim 31--.

Column 57, line 26, claim 49, change "1and" to --1 and--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Wall Marjama & Bilinski LLP
101 South Salina Street, Suite 400
Syracuse, NY 13202

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	10/328,939
Filing Date	December 23, 2002
First Named Inventor	Andrew Longacre Jr.
Art Unit	2876
Examiner Name	Thien Minh Le
Total Number of Pages in This Submission: 13	Attorney Docket Number: 283-361.01

ENCLOSURES *(check all that apply)*

- ☐ Fee Transmittal Form
  - ☐ Fee Attached
- ☐ Amendment / Reply
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Reply to Missing Parts/ Incomplete Application
  - ☐ Reply to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s)
  - ☐ Landscape Table on CD
- ☐ After Allowance Communication to Technology Center (TC)
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
- ☐ Proprietary Information
- ☐ Status Letter
- ☒ Other Enclosure(s) *(please identify below)*:

PTO/SB/44 (3 pgs),Request for Certificate of Correction Due to Office Error (8 pgs), Return Mailroom Postcard and Certificate of Express Mailing

Remarks: **The Commissioner is authorized to charge any additional fees to Deposit Account No. 50-0289.**

Express Mail Label No. EV676907882US

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Wall Marjama & Bilinski LLP George S. Blasiak Reg. No. 37,283
Signature	
Date	September 13, 2006

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service using the Express Mail Post Office To Addressee service per 37 CFR 1.10 under Express Mail No. EV676907882US addressed to **Mail Stop: Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450** on September 13, 2006.

Typed or printed name	Susan L. Pagano		
Signature		Date	September 13, 2006

Certificate
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of Correction

SEP 19 2006

IFW
2836

NEIFELD IP LAW, P.C.
2001 Jefferson Davis Highway
Suite 1001
Arlington, VA 22202

Tel: 703-415-0012
Fax: 703-415-0013
Email: rneifeld@Neifeld.com
Web: www.Neifeld.com

OIPE JC139 AUG 17 2004 PATENT & TRADEMARK OFFICE

TRANSMITTAL LETTER

ASSISTANT COMMISSIONER FOR PATENTS
ALEXANDRIA, VA 22313

RE: Attorney Docket No.: X2YA0108U-US-C1
Application Serial No.: 10/328,942
Filed: 12/23/2002
Title: Paired multi-layered dielectric independent passive component architecture resulting in differential and common mode filtering with surge protection..
Inventor: ANTHONY
Group Art Unit: 2836
Examiner: Jackson

SIR:

Attached hereto for filing are the following papers:

1. Decision on Petition Under 37 CFR 1.183 Seeking Waiver of Requirements Under 37 CFR 1.98 and 1.52 (Filed in Application Serial No: 10/237,079, Neifeld Docket No: X2YA0010U-US; 5 Pages)

Our check in the amount of $0.00 is attached covering the required fees.

The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 50-2106. A duplicate copy of this sheet is enclosed.

31518
PATENT TRADEMARK OFFICE

8/17/04
Date

Richard A. Neifeld, Ph.D.
Registration No. 35,299
Attorney of Record

Printed: August 16, 2004 (5:37pm)
Y:\Clients\X2YA\X2YA0108\X2YA0108U-US-C1\Drafts\Trans Ltr_040816.wpd

8-13-04 RB

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OIPE JC139
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NEIFELD IP LAW, PC
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

Attorney Review of Decision: 8-2004

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OFFICE OF PETITIONS

In re Application of
Anthony, A. et al.
Application No. 10/237,079
Filed: September 9, 2002
For: UNIVERSIAL ENERGY CONDITIONING INTERPOSER WITH CIRCUIT ARCHITECTURE
Attorney Docket No. X2YA0010U/US

DECISION ON PETITION UNDER 37 CFR 1.183 SEEKING WAIVER OF REQUIREMENTS UNDER 37 CFR 1.98 and 1.52

This is a response to a petition under 37 CFR 1.183 filed on April 22, 2004, concurrently with an Information Disclosure Statement (IDS). The § 1.183 petition requests waiver of the rules for Information Disclosure Statements under 37 CFR 1.98. The petition under 37 CFR 1.183, is requesting relief from the § 1.98 provision which requires filing a paper copy of each reference in each of 26 related applications where the references are being cited by Petitioner. The request for waiver is made in view of the need to file multiple applications relating to different aspects of a particular invention. The § 1.183 petition also contains a request seeking permission to submit the same prior art submissions on compact disc which would require a waiver of 37 CFR 1.52(a) and (e).

The petition under 37 CFR 1.183 requesting relief to file a reduced number of paper copies of IDS references and to file them on compact disc is **GRANTED IN PART** to the extent set forth below.

Part I. Background

The instant application filed under 35 U.S.C. 111 is one of about 26 U.S. applications relating to different aspects of an invention.

DecPet_X2YA0010U_US_040813 RB

Petitioner's submission of an Information Disclosure Statement is taken as an attempt to comply with 37 CFR 1.56(b)(1) that requires disclosure to the Office of information material to patentability, which includes information that "establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim...." Such disclosure can be made by an Information Disclosure Statement (IDS) in the manner prescribed by 37 CFR 1.97 and 1.98.

Part II. Petition Under 37 CFR 1.183 - Special Treatment of Compact Disc

The petition states that the compact disc filed with the IDS is an additional copy of the paper references included with the IDS. It is not apparent from the petition why the Office needs to make available to every examiner in all 26 applications a second copy of each reference on compact disc. Accepting a second copy on compact disc of each reference places an additional burden on the Office. First, there is the burden to determine if the paper copy and the compact disc copy of the references are the same. If the two copies are not the same it raises questions about what the examiner considered in each application. Second, accepting the compact disc copy places a burden on the Office to maintain a copy as part of the Official record of the application. Finally, there is insufficient information in the petition evaluate the data formats and software requirements to determine how compatible the filing is with the Office's automated systems and procedures for maintaining records. Hence it is not clear why relief is required under § 1.183 if relief from filing a paper copy in each application is granted. Nor is it apparent on balance why the Office should accept the additional burden of having to process a second copy of the references on compact disc. In view of the relief granted below, no further discussion of the compact discs is required in this decision.

Petition under § 1.183 for a waiver of the rules for compact discs is Dismissed.

Part III. Petition Under 37 CFR 1.183 - Paper Copies

37 CFR 1.98 requires that any information disclosure statement provide a copy of all patents, publications or other information submitted under 37 CFR 1.97 for consideration by the Office. 37 CFR 1.97 notes that information disclosure statements are considered in regard to the application in which they are filed. See also MPEP 609, pages 600-121 and 600-122.

Paper copies: Petitioner notes that the instant application is one of about 24 bulk filing applications that have been filed in regard to a particular technology. Accordingly, Petitioner requests that one individual paper copy of each citation brought to the attention of the Office in regard to the instant individual application, the "holding" application, not be required to be submitted in each related "bulk filing" application.

Rather than be required to submit, via a paper copy, two cartons of foreign patent and non-patent literature references in each of 24 applications, Petitioner seeks to have:

(1) The concurrently filed single paper copy of each IDS citation fulfill the requirement for a paper copy in all 24 applications;

(2) One application (the instant application) identified as a "holding" application which would contain one complete set of paper copies of references; the paper copies of the references to be submitted in only the "holding" application;

(3) The other related pending U.S. applications, hereafter referred to as the "bulk filing" applications, be exempt from requiring a separately filed paper set of the references; the bulk filing applications will contain other information, e.g., a copy of the decision on petition permitting such procedure, and a copy of the Form 1449 (or equivalent).

Once past the initial IDS submission, the petition does not propose the waiver to apply to updates and no waiver is granted for updates of the IDS.

A review of Office records indicates that 23 applications are either Image File Wrapper (IFW) applications or will soon be IFW applications. The one application that is not an IFW application will become an IFW application upon filing an RCE which appears to be required for consideration of the IDS. The Office has provided an image copy of all of the IDS references from the holding application to the other 23 bulk IFW applications.

Decision: 37 CFR 1.183 provides relief for extraordinary situations, when justice requires suspension of any requirement of the regulations which is not a requirement of the statutes. The instant petition urges that not only would applicant be spared the necessity of submitting duplicative paper copies of foreign patent and non-patent literature references in 24 applications, but also the Office would benefit from not having to handle and store the duplicative sets of copies. While there may be some negative effects from the Office's point of view in terms of making the copies available in different applications from one paper copy, on balance, there is seen to be sufficient benefit to justify waiver in this instance for all the applications filed.

Accordingly, the petition under 37 CFR 1.183 is granted to the extent indicated and under the terms and conditions as are set forth below.

The § 1.98(a)(2) requirement for (the submission of) a copy of each foreign patent and non-patent literature IDS citation in a bulk filing application will be waived in the bulk filing applications provided that the following 7 conditions are complied with:

1) One paper copy of each foreign patent and non-patent literature IDS citation has been submitted to the Office in the concurrently filed IDS in this, the holding application;

2) The information cited in each of the bulk filing applications is or has also been cited in the holding application;

Note: Applicant is not required to cite in each bulk filing application every item of information that is cited in the instant holding application. Items should be cited in each bulk filing application on the basis of relevancy and materiality to the particular claims in the bulk filing application and what each piece of information teaches.

A waiver is not granted (for the requirement to supply a paper copy of an IDS citation in another bulk filing application) where the citation is not, or has not been, made in the instant holding application.

4) A copy of this Decision is filed in each bulk filing application for which waiver is requested;

5) Explanatory information related to a particular citation, such as the concise explanation of a foreign language reference under § 1.98(a)(2), if submitted in the holding application, must also be supplied in each bulk filing application where the citation is made.

6) The Office accepts and specifically reserves the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. Termination by applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

7) There will be no waiver of any aspects of 37 CFR 1.97 in any application after allowance or final rejection of that application.

Part IV. Further Correspondence

Any correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

By FAX: (703) 872-9306
Attn: Office Patent Legal Administration/Michael L. Lewis

Telephone inquiries should be directed to Michael L. Lewis at (703)306-5585.

Robert J. Spar
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Petitioner's list of Applications

NEIFELD DOCKET NO: X2YA0010U/US

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATIONS OF: Anthony

Examiner: JACKSON, S.

APPLICATION NO: 10/237,079

GAU: 2836

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APR 2 2 2004
OPLA

Filed: 9/9/2002

Title: Universal Energy Conditioning Interposer with Circuit Architecture

and relating to the following 24 applications:

National AppNo	Neif Dock Ref	Status	Title
09/647,648	X2YA0105UPCT-US	Allowed	Component Carrier
10/479,506	X2YA0025UPCT-US	pending	Arrangement for Energy
10/766,000	X2YA0013U-US	pending	Shielded Energy Conditioner
09/996,355	X2YA0125U-US	Pending	Energy pathway arrangement
10/023,467	X2YA0126U-US	Pending	Energy pathway arrangements
10/115,159	X2YA0021U-US	Pending	Offset pathway arrangements
10/189,338	X2YA0022U-US	Pending	Pathway arrangement
10/189,339	X2YA0023U-US	Pending	Arrangement for energy
10/237,079	X2YA0010U/US	Pending	Universal energy conditioning
10/328,942	X2YA0108U-US-C1	Pending	Paired Multi-Layered Dielectric
10/344,749	X2YA0119UPCT-US	Pending	An Electrode Arrangement for
10/399,590	X2YA0015UPCT-US	Pending	Amalgam of shielding and
10/399,630	X2YA0014UPCT-US	Pending	Energy Pathway Arrangements
10/432,840	X2YA0016UPCT-US	Pending	Energy Pathway Arrangements
10/433,482	X2YA0017UPCT-US	Pending	Energy Pathway Arrangements
10/435,199	X2YA0020U-US	Pending	Energy Conditioning Structure
10/443,764	X2YA0026U-US-C1	Pending	Paired Multi-Layered Dielectric
10/443,778	X2YA0029U-US-C2	Pending	Energy Conditioning Circuit
10/443,788	X2YA0028U-US-C2	Pending	Component Carrier
10/443,792	X2YA0027U-US-C1	Pending	Multi-Functional Energy
10/460,361	X2YA0032UUSC1	Pending	Predetermined symmetrically
10/705,962	X2YA0041U-US	Pending	COMPONENT CARRIER
09/632,048	X2YA0117U-US	Allowed	Universal Energy Conditioning
10/369,335	X2YA0100U-US-C4	Allowed	Polymer Fuse & Filter

TO: ASSISTANT COMMISSIONER FOR PATENTS

ALEXANDRIA, VA 22313

37 CFR 1.183 PETITION TO WAIVE PORTION OF THE IDS RULES

FILE A REDUCED SET OF REFERENCES

BEST AVAILABLE COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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www.uspto.gov

Schwabe Williamson & Wyatt
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Robert A. DiFalco	: DECISION ON REQUEST FOR
Patent Number	: 7587754	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/328,957	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/24/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **246** 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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P.O. Box 1450
Alexandria, VA 22313-1450
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SUN MICROSYSTEMS INC.
C/O PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS, CA 95618-7759

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AUG 16 2007

OFFICE OF PETITIONS

In re Application of Tripathi et al. :
Application No. 10/329,011 : Decision on Petition
Filing Date: December 23, 2002 :
Attorney Docket No. SUN-P8199 :

This is a decision on the petition under 37 CFR 1.181, filed March 8, 2007, to withdraw the holding of abandonment.

The petition is **granted.**

This application was held abandoned for failure to timely and properly respond to the final Office action of July 11, 2006, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before October 11, 2006. A Notice of Abandonment was mailed on February 27, 2007.

Petitioner asserts a RCE and the required fee were timely filed. In support of the petition, petitioner has submitted a date-stamped postcard receipt, indicating a RCE and $790 fee were received on October 16, 2006. A copy of the RCE accompanies the petition.

The original RCE filed October 16, 2006, was not matched with the file and cannot be located. However, M.P.E.P. 503 states, "[a] postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded the RCE was filed in the Patent and Trademark Office on October 16, 2006, but not matched with the application file.

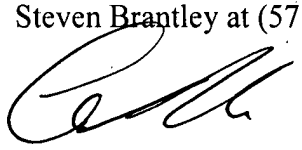
The RCE bears a certificate of mailing date of October 9, 2006, and the paper satisfies the requirements of 37 CFR 1.8(a). Therefore, the RCE filed October 16, 2006, is considered timely.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The copy of the RCE received with the petition will be accepted in place of the reply originally filed October 16, 2006.

This application is being referred to Technology Center Art Unit 2113 for entry and consideration of the RCE in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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28 STATE STREET
BOSTON, MA 02109

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OFFICE OF PETITIONS

In re Application of :
Hulse et al. :
Application No. 10/329,024 : ON PETITION
Filed: December 23, 2002 :
Attorney Docket No. PAS-182 :

This decision concerns the July 17, 2003 "Petition Requesting Grant of Original Filing Date Pursuant to 37 CFR 1.10" which is being properly treated as a petition under 37 CFR 1.10(c).

The petition is **GRANTED**.

The petition requests a filing date of December 23, 2002 rather than the presently accorded filing date of December 24, 2002, on the basis that the application was deposited on December 23, 2002 in the U.S. Postal Service (USPS) "Express Mail Post Office to Addressee" service ("Express mail") pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of the "Express Mail" mailing label bearing the number "EL931680299US" and containing a USPS date-stamp of December 23, 2002. The same mailing label number also appears on the application transmittal which itemizes the application papers being mailed on that date. In addition, the Office has verified through the electronic database provided by the USPS to the USPTO that the package mailed under this label had been accepted by the USPS on December 23, 2002 at 10:23 pm. The petition is thus granted.

No petition fee is owed. The $130 petition fee charged to Deposit Account No. 12-0080 on July 18, 2003 has been reversed.

In addition, the Office acknowledges receipt on April 14, 2003 (Monday) of an executed declaration, filed in response to the February 13, 2003 "Notice to File Missing Parts of Nonprovisional Application," and the $130 surcharge for late filing of an acceptable oath or declaration.

The application file is now complete.

The application file is being forwarded to the Office of Initial Patent Examination for correcting the filing date to December 23, 2002, and for mailing a corrected filing receipt reflecting that filing date. Thereafter, the application file will be forwarded to Technology Center 2100 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

USPTO's USPS Express Mail Information Database

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Origin ZIP: 02205

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Attempted Delivery Date and Time:	//	
Actual Delivery Date and Time:	12/26/2002	11:23 am

***Also referred to as "Date In"**

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Wednesday, July 30, 2003 06:45 PM

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DAYTON, OH 45401-8801

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SEP 22 2006
OFFICE OF PETITIONS

In re Application of :
Joseph C. Huang, et al. :
Application No. 10/329,040 : ON PETITION
Filed: December 23, 2002 :
Attorney Docket No. 006593-1754 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 21, 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 July 31, 2006, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated July 27, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

It is noted that the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: " Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

The application is being referred to Technology Center AU 1723 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MICHAEL J. NIEBERDING
THOMPSON HINE LLP
2000 COURTHOUSE PLAZA NE
DAYTON, OH 45402-1758

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : September 21, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Joseph C. Huang, et al.
Application No. : 10/329,040
Filed : December 23, 2002

The above-identified application has been assigned Patent No. 7,111,976 and an issue date of September 26, 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 September 26 2006:

> "All reference to Patent No. 7,111,976 to JOSEPH C. HUANG, ET AL. of OHIO for MIXING DEVICE WITH VARIABLE SPEED DRIVE AND RELATED CONTROL FEATURES appearing in the Official Gazette of September 26, 2006, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
666 THIRD AVENUE
NEW YORK NY 10017

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MAY 01 2006
OFFICE OF PETITIONS

In re Application of :
Jens-Oliver Koopmann et al. :
Application No. 10/329,052 : ON PETITION
Filed: December 23, 2002 :
Attorney Docket Number: **2706-1-001** :

This is a decision on the petition filed November 9, 2005 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned October 28, 2005 for failure to timely pay the issue fee on or before October 27, 2005. 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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091123

DATE : November 25, 2009

TO SPE OF : ART UNIT 1631

SUBJECT : Request for Certificate of Correction on Patent No.: 7251568

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 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: /Marjorie Moran/ **Art Unit** 1631

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

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JUL 2 2 2003

OFFICE OF PETITIONS

Hollis-Eden Pharmaceuticals, Inc.
4435 Eastgate Mall
Suite 400
San Diego, CA 92121

In re Application of :
Ahlem et al. :
Application No. 10/329,065 : DECISION GRANTING PETITION
Filed: December 21, 2002 :
Attorney Docket No. 202.2D :

This is a decision on the petition filed June 30, 2003, requesting that the above-identified application be accorded a filing date of December 21, 2002, with Figures 1-6 as part of the original disclosure.

On December 21, 2002, applicants deposited the above-identified application. However, on March 11, 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 required the submission of an oath or declaration and the surcharge for its late filing.

In response, on June 30, 2003, applicants filed, inter alia, the present petition, a copy of Figures 1-6, and authorized payment of the $130.00 petition fee. Applicants requested that the application, including Figures 1-6, be accorded a filing date of December 21, 2002. In the present petition, applicants stated that the above-referenced application is a continuation application of application No. 09/535,675. Applicants further stated that in the cross-reference to related applications at page 1 of the above-referenced application, application No. 09/535,675 was incorporated by reference. Applicants asserted that application No. 09/535,675 contained the same drawings that the above-identified application described in the brief description in paragraph 10 at pages 5-6.

It is noted that the specification indicated that this application is a continuation application of application No. 09/535,675, filed March 23, 2000, which is incorporated by reference.

Section 201.06(c) of the Manual of Patent Examining Procedure states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

Obviously, in view of the incorporation by reference of application No. 09/535,675, Figures 1-6 are not new matter if they were part of the disclosure of the nonprovisional application.

Accordingly, the petition is granted. The $130.0 petition fee will be charged to Deposit Account No. 50-1536, as authorized by applicants.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 21, 2002, using Figures 1-6 submitted with the present petition.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6708

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OFFICE OF PETITIONS

In re Application of
Michael Portuesi
Application No. 10/329,080
Filed: December 23, 2002
Attorney Docket No. 218052

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 11, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the
(2) prior-filed application, unless previously submitted;
(3) the surcharge set forth in § 1.17(t); and
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The 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).

Initially, the Office notes that the amendment submitted with the instant petition contains a reference to the incorrect nonprovisional Application No. 09/105,011,[1] instead of the correct nonprovisional Application No. 09/105,811, filed June 26, 1998. Nevertheless, the amendment contains a correct reference to U.S. Patent No. 5,987,509, issued November 16, 1999. Thus, it appears that applicant desires to claim the benefit of priority to the prior-filed nonprovisional Application No. 09/105,811, but made a typographical error in referencing the incorrect nonprovisional Application No. 09/105,011.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) the Office will construe the reference in the amendment to the incorrect nonprovisional Application No. 09/105,011, as a reference to the prior-filed nonprovisional Application No. 09/105,811 in compliance with 37 CFR 1.78(a)(2)(iii); (2) applicant submitted an authorization to charge the Deposit Account for the surcharge fee required by 37 CFR 1.17(t); and (3) the petition contains an appropriate 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 No. 09/105,811 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. 09/105,811, accompanies this decision on petition.

The $1,370.00 surcharge fee required by 37 CFR 1.17(t) will be charged to Deposit Account No. 12-1216, as authorized.

---

[1] Application No. 09/105,011, entitled "LAMP WITH LIGHT REFLECTION BACK INTO BULB," was filed on June 26, 1998 (now U.S. Patent No. 6,020,676, issued February 1, 2000).

[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).

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.

This matter is being referred to Technology Center Art Unit 2154 for 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 No. 09/105,811, filed June 26, 1998.

Frances Hicks
Lead Paralegal
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

TUROCY & WATSON, LLP
127 Public Square
57th Floor, Key Tower
Cleveland, OH 44114

In re Patent No. 6,963,906 :
Issue Date: November 8, 2005 :
Application No. 10/329,080 : ON PETITION
Filed: December 23, 2002 :
Attorney Docket No. MSFTP1083USA/ :
MS191602.04

This is a decision on the petition under 37 CFR 1.182, filed July 20, 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 a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to Kimberly Inabinet at (571) 272-4618. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to the Office of Data Management at (703) 308-9250.

A copy of this decision is being forwarded to the Publishing Division for issuance of duplicate Letters Patent.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, RSQ, (Fax – (571) 270-9753)

UNITED S[illegible] DEPARTMENT OF COMMERC
Patent and [illegible]ademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

J1050 U.S. PTO
10/329090
12/23/02

KRAMER, LEVIN, NAFTALIS AND FRANKEL, LLP
919 THIRD AVENUE
NEW YORK, NY 10022

Serial No.: 09/257,072
Filed: February 24, 1999
For: SYNTHESIS OF EPOTHILONES, INTERMEDIATES THERETO, AND ANALOGUES THEREOF

This is a decision on the Petition, filed December 31, 1999, to Add Joint Inventor under 37 CFR 1.48(b).

In view of the facsimile filed to correct inventorship on August 10, 1999, this application has been corrected in compliance with 37 CFR 1.48(b). The Inventorship of this application has been changed by Adding the following inventors.

Scott Kuduk
Christina Harris
Joseph Bertino
Xiu-Guo Zhang

The Petition is GRANTED.

The application is being forwarded to applications branch for correction of data on the front jacket of the file.

Joseph K. McKane

Joseph McKane
Supervisory Patent Examiner
Technology Center 1600
Art Unit 1626

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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C. HUNTER BAKER, M.D., Ph.D
CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

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JUN 16 2006

OFFICE OF PETITIONS

In re Patent No. 6,965,034 :
Applicant DANISHEFSKY, et al :
Application No. 10/329,090 : DECISION ON APPLICATION
Filed: December 23, 2002 : FOR
Atty Docket No. 2003080-0108 : PATENT TERM ADJUSTMENT
:

This is a decision on the "Application for Patent Term Adjustment under 37 CFR 1.705(b)" filed January 9, 2006. Patentees request that the patent term adjustment indicated on the face of the Letters Patent be corrected from one hundred forty-eight (148) days to four hundred twenty-eight (428) days.

The request for reconsideration of the patent term adjustment is **DISMISSED.**

Patentees are given **TWO (2) MONTHS** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

On November 15, 2005, the above-identified application matured into U.S. Patent No. 6,965,034, with a revised patent term adjustment of 148 days. The instant request for reconsideration filed on January 9, 2006 was timely filed within 2 months of the date the patent issued. See §1.705(d).

Patentees assert that an additional period of adjustment of 280 days should have been entered for the Office taking in excess of four months to issue the patent after the issue fee was received under 37 C.F.R. 1.702(a)(4).

A review of the record confirms that two hundred and eight-one (281) days were entered for Office delay in issuing the patent

pursuant to § 1.702(a)(4) and § 1.703(a)(6). This is reflected as entry no. 48 "11/15/05 Patent Issue Date used in PTA calculation" on the PTA Calculations PAIR screen. Furthermore, this is the correct period of adjustment for the delay.

In view thereof, adjustments to the patent term calculations for USPTO delay as requested by applicant is not warranted and the petition is dismissed.

The patent term adjustment of 148 days indicated on the patent is correct.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries specific to this matter should be directed to Amelia Au at 571.272.7414.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of PAIR Screen

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BRADLEY ARANT ROSE & WHITE
INTELLETUAL PROPERTY DEPARTMENT-NWJ
1819 FIFTH AVENUE NORTH
BIRMINGHAM AL 35203-2104

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OFFICE OF PETITIONS

In re Application of :
Giuseppe Righini :
Application No. 10/329,095 : ON PETITION
Filed: December 23, 2002 :
Attorney Docket No. PS2205US04NJ :

This is a decision on the petition, filed July 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 June 6, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3728 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. _____

Date : July 29, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Giuseppe Righini
Application No. :10/329,095
Filed :December 23, 2002

The above-identified application has been assigned Patent No. 6,923,323 and an issue date of August 2, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of August 2, 2005:

"All reference to Patent No. 6,923,323 to Giuseppe Righini of Italy for PACKAGING FOR METALLIC FINDINGS AND OTHERS, PARTICULARLY SMALL BLOCKS AND TWIST DRILLS appearing in the Official Gazette of August 2, 2005 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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Bradley Arant Rose & White, LLP
Intellectual Property Department-NWJ
1819 Fifth Avenue North
Birmingham, AL 35203-2104

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OFFICE OF PETITIONS

In re Application of	:	
Giuseppe Righini	:	
Application No. 10/329,095	:	DECISION ON PETITION
Filed: December 23, 2002	:	TO WITHDRAW
Attorney Docket No. PS2205US04NJ	:	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 10, 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 Nathan W. Johnson on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Giuseppe Righini**
Via Morine 13/b
Imola, Bologna, 40026
Italy

cc: **Carlo Rinaldi**
Ufficio Brevetti Nazionali ed Ester
Dell'Ing Carlo RINALDI & c.S.n.c.
Piazza di Porta Castiglione 16
Bologna, Italy 40136

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Paper No.

HESLIN ROTHENBERG FARLEY &
MESITI PC
5 COLUMBIA CIRCLE
ALBANY NY 12203

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MAY 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Peters et al.	:	DECISION ON
Application No. 10/329,108	:	PETITION
Filed: December 24, 2002	:	
Atty Docket No. 2166.001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 14, 2006.

The petition is **GRANTED**.

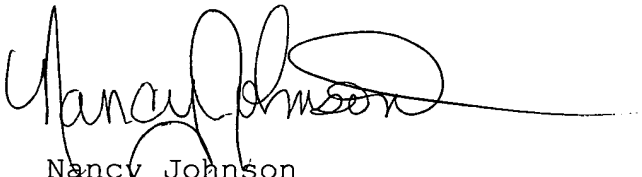
The above-identified application became abandoned for failure to pay the Issue Fee and Publication Fee within three months of the mailing date, October 27, 2005, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. No reply having been received, the above-identified application became abandoned on January 28, 2006. A courtesy Notice of Abandonment was mailed on March 31, 2006.

The petition included 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 related to this decision should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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SYNNESTVEDT & LECHNER LLP
2600 ARAMARK TOWER
1101 MARKET STREET
PHILADELPHIA, PA 19107

COPY MAILED
AUG 16 2006
OFFICE OF PETITIONS

In re Application of :
Daniel J. O'Mahony :
Application No. 10/329,130 : DECISION ON PETITION
Filed: December 23, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. P26,475-A US2 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 9, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/573,252 as set forth in the amendment and Application Data Sheet (ADS) filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37

CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

It is noted that the foreign application number cited on the present amendment and ADS differs from the foreign application number as it was originally cited on filing. If the foreign application number is, in fact, incorrectly cited on the amendment and ADS filed March 9, 2006, applicant must promptly file a new amendment and ADS correcting such error.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1639 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances M. Hicks
Lead, Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
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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
10/329,130	12/23/2002	1639	740	P26,475-A US2	5	5	1

CONFIRMATION NO. 8976

Synnestvedt & Lechner LLP
2600 Aramark Tower
1101 Market Street
Philadelphia, PA 19107

CORRECTED FILING RECEIPT

OC000000019963116

OC000000019963116

Date Mailed: 08/09/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Daniel Joseph O'Mahony, Dublin, IRELAND;

Power of Attorney:

Marla Church--29908
Kathleen Lynch--33957
Mary Severson--34927

Domestic Priority data as claimed by applicant

This application is a CON of 09/573,252 05/18/2000 PAT 6,521,737
which is a DIV of 08/746,411 11/08/1996 PAT 6,117,632
which claims benefit of 60/006,461 11/10/1995

Foreign Applications

IRELAND 950,865 11/10/1995

If Required, Foreign Filing License Granted: 03/10/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/329,130

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Peptides which enhance transport across tissues and methods of identifying and using the same

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or

the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Paper No. 5

Gary Cary Ware & Freidenrich
1755 Embarcadero Road
Palo Alto, CA 94303-3340

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MAY 27 2003

OFFICE OF PETITIONS

In re application of
Elizabeth Alumbaugh et al.
Application No. 10/329,153
Filing Date: December 23, 2002
Attorney Docket No. 2502035-991101

ON PETITION

This is a decision on the petition under 37 CFR 1.47(a) filed April 21, 2003.

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor has refused to join in 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.

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

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WESTERN DIGITAL TECHNOLOGIES, INC.
20511 LAKE FOREST DRIVE - C205
LAKE FOREST, CA 92630

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JUN 28 2005

OFFICE OF PETITIONS

In re Application of	:
Michael S. Rothberg	: DECISION ON PETITION
Application No. 10/329,161	: UNDER 37 CFR 1.137(b)
Filed: December 24, 2002	:
Attorney Docket No. K35A1171	:

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**.

This application became abandoned for failure to timely pay the issue fee on or before January 18, 2005.

The petition satisfies the requirements for a grantable petition in that the reply in the form of the issue fee payment of $1,400; the petition fee of $1,500; and the required statement of unintentional delay have been submitted. Accordingly, the issue fee is accepted as having been unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Howard H. Sheerin
23233 N. Pima Road
Suite 113, PMB 174
Scottsdale, AZ 85255

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Paper No. 4

Mark D. Saralino
RENNER, OTTO, BOISSELLE & SKLAR, LLP
Nineteenth Floor
1621 Euclid Avenue
Cleveland, OH 44115-2191

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MAY 2 2 2003

OFFICE OF PETITIONS

In re Application of :
Yamauchi :
Application No. 10/329,164 : ON PETITION
Filed: December 24, 2002 :
Attorney Docket No.: YAMAP0604USA :

This decision in response to the petition filed April 1, 2003 in response to the "Notice of Omitted Items in a Nonprovisional Application ("Notice") mailed January 31, 2003. This response is being treated as a petition to accord this application a filing date of December 24, 2002.

The application was filed December 24, 2002. The Notice mailed January 1, 2003 by the Office of Initial Patent Examination notified applicant that the application had been accorded a filing date but that the application appeared to have been deposited without Figures 14A and 14B as referenced in the specification.

In response, the present petition was filed April 1, 2003. Petitioner argues that the "Notice" was mailed in error, since fourteen (14) drawing sheets were included with the application as filed on December 24, 2002. Petitioner has included as proof of mailing and proof of receipt of the referenced drawings a return postcard date stamped by the Office on December 24, 2002. A copy of the original drawing sheet containing Figures 14A and 14B purportedly filed with the application on December 24, 2002 was also supplied. Petitioner suggests that the complete application was received by the Office and that the drawing sheet containing Figures 14A and 14B was inadvertently misplaced.

The original drawing sheet containing Figures 14A and 14B 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 24, 2002 is GRANTED.

Since the original drawing sheet containing Figures 14A and 14B 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 such request.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of December 24, 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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OFFICE OF THE DIRECTOR
TC 3600

BRENDA POMERANCE
Law Office of Brenda Pomerance
260 West 52 Street, Suite 27B
New York, NY 10019

In re application of : **DECISION ON PETITION**
Christopher Keith : **TO MAKE SPECIAL**
Application No. 10/329,174 : **(APPLICANT'S AGE)**
Filed: December 24, 2002 :
For: PROCEDURAL ORDER SYSTEM AND METHOD

This is a decision on the petition submitted on February 14, 2005, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Keith indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 03/02/05

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BURNS & LEVINSON, LLP
125 SUMMER STREET
BOSTON MA 02110

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AUG 15 2008

OFFICE OF PETITIONS

In re Patent No. 7,266,576 :
Issue Date: September 4, 2007 :
Application No. 10/329,192 : ON PETITION
Filed: December 24, 2002 :
Attorney Docket Number: 12078-136 :

This is a decision on the petition, filed February 29, 2008, under 37 CFR 1.182, requesting the issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

Since it is U.S. Patent and Trademark Office practice to assure mailing of all papers on the date indicated, there is a strong presumption that papers duly addressed and indicated as mailed, such as the Letters Patent in this application, are timely delivered to the addressee. To overcome this presumption, a verified statement with supporting evidence, such as any records which would disclose the receipt of other correspondence mailed from the U.S. Patent and Trademark Office on or about September 4, 2007, but fail to disclose receipt of the Letters Patent mailed on that date, should be promptly submitted. Further, copies of records on which receipt of the Letters Patent would have been entered had it been received are required.

However, if the loss of the Letters Patent was not the fault of the U.S. Patent and Trademark Office or if petitioner simply wishes to avoid overcoming the above-noted presumption, a petition may be filed under 37 CFR 1.182 accompanied by a petition fee of $400.00 requesting a duplicate Letters Patent. Upon receipt of the petition and petition fee, the request for a duplicate Letters Patent will be granted.

Petitioners state that the Letters Patent was received from the USPTO but cannot be located. The petition fee in the amount of $400.00 has been applied.

A copy of this decision is being forwarded to Office of Data Management for issuance of a duplicate Letters Patent.

The Office of Data Management is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to the undersigned Senior Petitions Attorney at (571) 272-3212. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to the Office of Data Management at (703) 308-9250.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc: Niomi Farmer (Fax – (571) 270-9753)

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Paper No.

KOHN & ASSOCIATES, PLLC
Suite 410
30500 Northwestern Highway
Farmington Hills MI 48334

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AUG 0 1 2006

OFFICE OF PETITIONS

In re Application of :
Andrew Barnes : DECISION ON PETITION
Application No. 10/329,208 :
Filed: December 24, 2002 :
Atty Docket No. 7126.00003 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed July 17, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed April 20, 2005. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective July 21, 2005. A courtesy Notice of Abandonment was mailed on December 7, 2005.

The petition includes the required reply, the statement of unintentional delay and payment of the petition fee. No terminal disclaimer is required.

Technology Center AU 2635 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply previously submitted on petition filed July 17, 2006.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OCT - 1 2003

UR
PAPER NO. 6

In re Application of :
Luying Sun :
Serial Number: 10/329,224 : PETITION UNDER
Filed: December 26, 2002 : M.P.E.P.708.02, V
For: GEL POLYMER ELECTROLYTE BATTERY :
AND METHOD OF PRODUCING THE SAME :

This is in response to the petition filed, December 26, 2002 requesting that the above-identified application be granted Special Status under section 708.02 (V) of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 (V) is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Lance Y. Liu
Mathews, Collins, Shepherd & McKay, P.A.
100Thanet Circle, Suite 306
Princeton, NJ 08540

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Paper No. _____

Date : February 16, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of Application No. 10/329,226

Applicant(s) :Fumiyuki Kato et al
Application No. :10/329,226
Filed :December 27, 2002

The above-identified application has been assigned Patent No. 6,857,866 and an issue date of February 22, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicants.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of February 22, 2005:

> "All reference to Patent No. 6,857,866 to Fumiyuki Kato et al of Japan, for INJECTION MACHINE OF HIERARCHICAL STRUCTURE TYPE appearing in the Official Gazette of February 22, 2005 should be deleted since no patent was granted."

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara Greene, Crystal Park 3-908

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PILLSBURY WINTHROP, LLP
P.O. BOX 10500
MCLEAN VA 22102

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FEB 16 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Fumiyuki Kato et al :
Application No. 10/329,226 :
Filed: December 27, 2002 :
Attorney Docket No. P 0300892 138471US :

This is a decision on the petition, filed February 15, 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 November 17, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1722 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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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PATENT FOCUS, INC
C/O RICHARD C. MCCOMAS
208 MARK LN
SMYRNA GA 30082

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JUN 12 2006

OFFICE OF PETITIONS

In re Application of :
Jerry C. Scott :
Application No. 10/329,228 : ON PETITION
Filed: December 26, 2002 :
Attorney Docket No. 1015.02 :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed February 17, 2006.

The petition is GRANTED.

The application became abandoned for failure to pay the issue fees on or before November 18, 2005. A Notice of Abandonment was mailed on February 2, 2006. Receipt is acknowledged of the requisite issue/publication fee on February 17, 2006.

The application is being referred to Publishing Division.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Steven M. Greenberg
Akerman Senterfitt
222 Lakeview Avenue, Fourth Floor
P.O. Box 3188
West Palm Beach FL 33402-3188

MAIL

MAY 2 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Christopher W. Day, et al.
Application No. 10/329,232
Filed: December 23, 2002
For: **WIRELESS NETWORK SECURITY**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed on September 2, 2003, pursuant to Manual of Patent Examination Procedure §708.02, section VIII, request for accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner has met the above listed requirements.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.
Although applicant has failed to provide such a statement, all claims should be directed to a single invention. **Therefore, if it is determined that the claims do not pertain to only one invention and if applicant does not make an election without traverse, then the special status of the application will cease.** The application file is being forwarded to the examiner for appropriate action in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/19/05

Paper No.: —

TO SPE OF : ART UNIT 2811

SUBJECT : Request for Certificate of Correction on Patent No.: 6848091 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Virginia Tolbert
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:

12/8/05

RICHARD T. ELMS
SUPERVISORY PATENT EXAMINER

SPE

2811
Art Unit

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United States Patent and Trademark Office
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Bradley T. Sako
WALKER & SAKO, LLP
Suite 235
300 South First Street
San Jose CA 95113

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NOV 2 1 2005

OFFICE OF PETITIONS

In re Application of
James et al
Application No. 10/329,246
Filed: December 23, 2002
Attorney Docket No. CD01140

Title of Invention: PACKET BASED COMMUNICATION FOR CONTENT ADDRESSABLE MEMORY (CAM) DEVICES AND SYSTEMS

DECISION GRANTING PETITION

This is a decision on the paper titled "Petition to File Declaration on Behalf of Non-signing Inventor under 37 C.F.R. § 1.47(a)" filed September 29, 2005 (September 27, 2005 certificate of mailing). This petition is properly treated under 37 CFR § 1.183 waiver of § 1.131's requirement that all of the inventors sign the declaration of prior inventorship.[1]

The petition under 37 CFR 1.183 is **GRANTED**.

The above-identified application was filed on December 23, 2002. Applicants submitted 37 CFR 1.63 declarations on December 23, 2002 and April 21, 2003. A non-final Office action was mailed on June 27, 2005. This office action set a shortened statutory period for reply of three months, with extensions of time obtainable under 37 CFR 1.136(a).

In response, on September 29, 2005 , applicants submitted a response, including a declaration under 37 CFR 1.131. The 37 CFR 1.131 declaration states that all of the inventors were responsible for reduction to practice of the subject matter of the rejected

[1] 37 CFR 1.47 only applies when an inventor refuses to sign the original 37 CFR 1.63 oath or declaration.

claims prior to the date of the reference on which the June 27, 2005 rejection was based. The 37 CFR 1.131 declaration was signed by inventor Jagadeesan Rajamanickam . Applicant has filed the instant petition to have the 37 CFR 1.131 declaration entered despite the fact that the declaration was not signed by joint inventor David V. James. Petitioner asserts that inventor James is unwilling to execute the declaration.

37 CFR 1.131 states, in pertinent part:

> When any claim of an application or a patent under reexamination is rejected, the **inventor** of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based.[2]

In addition, the Manual of Patent Examining Procedure states that "an application or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection."[3]

Here, there has not been a party qualified under 37 CFR 1.42, 1.43, or 1.47. In addition, applicants do not contend that less than all of the named inventors of the application invented the subject matter of the claims under rejection. Accordingly, the proper parties to sign the 37 CFR 1.131 declaration include all of the joint inventors.

In order for a petition under 37 CFR 1.183 to be granted to waive this requirement that joint inventor James sign the § 1.131 declaration, petitioner must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

On instant petition, applicants have set forth the steps taken to obtain inventor James signature on the § 1.131 declaration. Applicants have shown that a *bona fide* effort was made to present the § 1.131 declaration and supporting documentation to inventor James for signature. Under the circumstances, it is concluded that petitioner has demonstrated that this is an extraordinary situation requiring waiver of the rules.

The 37 CFR 1.131 declaration may be entered, despite the fact that its requirement that all of the inventors sign the declaration has not been satisfied.

The petition fee for waiver under 37 CFR 1.183 is $400.00. The Office is in receipt of

---

[2] 37 CFR 1.131(a) (emphasis added).

[3] MPEP 715.04.

$200.00. Accordingly, deposit account 50-2087 will be charged $200.00.

The application file is being forwarded to Technology Center 2100 for consideration on the merits of the reply and the 37 CFR 1.131 declaration, filed September 29, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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LAHIVE & COCKFIELD, LLP/MEDAREX
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109-2127

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MAR 12 2010

In re Patent No. 7,014,838	:	
Issue Date: March 21, 2006	:	
Application No. 10/329,258	:	NOTICE
Filed: December 23, 2002	:	
Attorney Docket No. 1149	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 17, 2009. 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 **DISMISSED**.

The request under 37 CFR 1.28 cannot be accepted at this time since it appears that the petition is not signed by a person having authority to act in the above-identified patent.

Petitioner's attention is directed to 37 CFR 1.33(b), which states.

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 or agent registered to practice before the U.S. Patent and Trademark Office or the assignee of the entire interest under 37 CFR 3.73(b).

Further, petitioner Andy Breeden, signed the actual 37 CFR 1.28 portion of the document. Jeanne M. DiGiorgio, 41,710 merely signed the "Notification of Loss Of Entitlement To Small Entity Status" which would come under 37 CFR 1.27.

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

Additionally, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Andy Breeden
Director of Annuity Payments
Computer Packages Inc.
414 Hungerford Drive, Third Floor
Rockville, MD 20850

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

Raymond Y. Chan
108 N. Ynez Avenue, Suite 128
Monterey Park, CA 91754

COPY MAILED

APR 0 9 2003

OFFICE OF PETITIONS

In re Application of :
Chen :
Application No. 10/329,267 : DECISION GRANTING
Filed: December 23, 2002 : PETITION
Attorney Docket No. USP1891T-CSC2 :

This is a decision on the petition filed February 21, 2003, to establish that Figures 5 and 6 were part of the originally filed application.

On December 23, 2002, the application was filed.

On February 11, 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 23, 2002, and advising applicants that Figures 5 and 6 described in the specification appeared to have been omitted.

In response, the present petition was filed alleging that Figures 5 and 6 were deposited on December 23, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of 7 sheets of drawings on December 23, 2002.[1] Petitioner has also submitted a copy of the missing documentation- 2 of the 7 sheets of drawings.

Upon review of the record, Figures 5 and 6, deposited on December 23, 2002, have not been located. However, the evidence is convincing that the application papers deposited on December 23, 2002, included Figures 5 and 6, and that the Figures were subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of Figures 5 and 6 submitted with the petition will be used for examination purposes.

A refund of the $130 petition fee will be scheduled.

The Notice mailed February 11, 2003, was sent in error and is hereby vacated.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 23, 2002, using the application papers filed on December 23, 2002, and the copy of Figures 5 and 6 filed on February 21, 2003.

---

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:1

DATE : April 19, 2006

TO SPE OF : ART UNIT 1775

SUBJECT : Request for Certificate of Correction on Patent No.: 6,921,582 10/329,274

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: Jennifer McNeil **Art Unit** 1775

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ALEXANDRIA, VA 22313-145
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16

Rabin & Berdo PC
1101 14th Street
Suite 500
Washington DC 20005

MAILED
APR 0 9 2003
REEXAM UNIT

In re Application of: :
Toru Ishihara :
Appl. No. 10/329,279 : DECISION GRANTING
Filed December 26, 2002 : PETITION TO
For: ELECTROGRAPHIC IMAGING : EXPEDITE PROSECUTION
APPARATUS AND TONER :

Applicant's petition of March 12, 2003, under 37 CFR §§ 1.182 and/or 1.183, to waive the standard two-month delay period following announcement of the reissue filing in the *Official Gazette* and to expedite prosecution, is before the Office of Patent Legal Administration.

The petition is granted.

DISCUSSION

This application for reissue was filed on December 26, 2002. The announcement of the reissue filing was published in the *Official Gazette* (O.G.) on March 25, 2003.

Office policy normally provides for a two-month delay in examination following the announcement of the filing in the *Official Gazette*. MPEP 1441.

Applicant has requested via this petition waiver of the policy set forth in MPEP 1441 as to the delay of examination following the announcement in the O.G. Such waiver is requested in order that examination not be delayed in view of possible ongoing infringement of the claims of the original patent.

The two-month delay period following the O.G. announcement is provided in order that members of the public may have an opportunity to inspect and review the reissue application and submit pertinent information to the Office in the form of a

protest under 37 CFR 1.291(a) prior to the examiner's first Office action on the merits.

The granting of petitioner's request for expedited examination does not close or remove the public's opportunity to protest the reissue application. Should a protest be filed in this application within two months from the date of the O.G. announcement, the examiner is instructed to proceed according to the provisions of 37 CFR 1.291, as well as MPEP §§ 1901.04 and 1901.06.

In the event an early determination of allowable subject matter is made by the examiner and made known to applicant, the application will be retained in the Technology Center pending expiration of the two month delay period, **prior to the mailing of a formal Notice of Allowance.**

CONCLUSION

The petition is granted.

The application is being forwarded to Technology Center 1700 for immediate examination as soon as practicable.

Since the two-month delay period is set to expire on May 25, 2003, the examiner is instructed to expedite examination of this application.

Any further question regarding the matter of this decision should be directed to the undersigned at (703) 305-1795.

Joseph A. Narcavage
Senior Special Projects Examiner
Office of Patent Legal Administration

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.

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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NOV 14 2008

In re Patent No. 7,364,846	:	
Karjala et al.	:	LETTER REGARDING
Issue Date: April 29, 2008	:	PATENT TERM ADJUSTMENT
Application No. 10/329,282	:	and
Filed: December 23, 2002	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 14255-046001	:	CERTIFICATE OF CORRECTION

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT" filed May 30, 2008. Pursuant to their duty of good faith and candor to the Office, patentees request review of the determination of patent term adjustment of sixty-eight (68) days included in the Issue Notification (and on the patent).

The request for review of the patent term adjustment (PTA) indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of four **(4)** days.

On April 29, 2008, the application matured into U.S. Patent No. 7,364,846, with a revised patent term adjustment of 68 days. Patentees disclose that the revised patent term adjustment may be longer than appropriate. Patentees point out that the Office did not calculate the time between the initial August 2005 Response after Non-final Action and the subsequent January 2006 Supplemental Response as Applicant Delay.

The record has been reviewed and patentees are correct that the patent term adjustment is longer than appropriate. In association with the filing of a supplemental response on

January 19, 2006, a period of reduction of 64 days should have been entered.

37 CFR 1.704 (c) provides that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> > (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

In this instance, after filing a response to the May 24, 2005 non-final Office action on August 24, 2005, on November 16, 2005, applicants filed a first supplemental response. Pursuant to 37 CFR 1.704(c)(8), a period of reduction of 84 days was entered for that applicant delay. Then, on January 19, 2006, the second supplemental response was filed. It is first noted that the period for reduction for these two supplemental replies overlaps from the day after the initial reply, August 25, 2005 to the day of the filing of the first supplemental reply, November 16, 2005. Considering the period of overlap, the period of reduction for filing of the second supplemental is 64 days, counting the number of days in the period beginning on November 17, 2005, the day after the initial supplemental response was filed, and ending on January 19, 2006, the date of filing of the second supplemental response.

In view thereof, the patent should have issued with a revised patent term adjustment of **FOUR (4)** days.

As this letter was submitted as an advisement to the Office of an error in patentees' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by four **(4)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,364,846 B2

DATED : **April 29, 2008** **DRAFT**

INVENTOR(S) : Erlander 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 68 days

Delete the phrase "by 68 days" and insert – by 4 days--

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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Ali R. Rezai	: DECISION ON REQUEST FOR
Patent Number	: 7623927	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/329,285	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/24/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1003** 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

Fish & Richardson PC
P.O. Box 1022
Minneapolis, MN 55440-1022

In re Application of :

David Sellers :
Application No. 10/329,288 : DECISION ON PETITION
Filed: December 24, 2002 : TO WITHDRAW
Attorney Docket No. 04764-008001 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 31, 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 Faustino A. Lichauco on behalf of all attorneys of record.

All attorneys/agents associated with Fish & Richardson PC have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Faustino A. Lichauco at the address indicated below.

There is an outstanding Office action mailed August 16, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **David Sellers**
2 Brook Road
Warren, VT 05674

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/329,288	12/24/2002	David Sellers	04764-008001

CONFIRMATION NO. 8367

26161
FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

OC000000022713223

OC000000022713223

Date Mailed: 03/01/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/31/2006.

- 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.

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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NOV 18 2009

OFFICE OF PETITIONS

DYKAS, SHAVER & NIPPER, LLP
P.O. BOX 877
BOISE, ID 83701-0877

In re Patent No. 6,880,629	:	
Issue Date: April 19, 2005	:	
Application No. 10/329,297	:	NOTICE
Filed: December 23, 2002	:	
Attorney Docket No. CTEC101	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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MAR 0 2 2007

OFFICE OF PETITIONS

Fish & Richardson PC
P.O. Box 1022
Minneapolis, MN 55440-1022

In re Application of :

David Sellers :
Application No. 10/329,299 : DECISION ON PETITION
Filed: December 24, 2002 : TO WITHDRAW
Attorney Docket No. 04764-006001 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 31, 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 Faustino A. Lichauco on behalf of all attorneys of record.

All attorneys/agents associated with the Fish & Richardson PC have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor David Sellers at the address indicated below.

The application became abandoned for failure to timely respond to the Final Rejection mailed June 14, 2006.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

J. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **David Sellers**
2 Brook Road
Warren, VT 05674

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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
10/329,299	12/24/2002	David Sellers	04764-006001

CONFIRMATION NO. 8318

26161
FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

OC000000022694061

OC000000022694061

Date Mailed: 03/01/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/31/2006.

- 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.

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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LADAS & PARRY LLP
26 WEST 61ST STREET
NEW YORK, NY 10023

Mail Date: 04/21/2010

Applicant	: Juan Delgado Puche	: DECISION ON REQUEST FOR
Patent Number	: 7637969	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/329,322	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/23/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1052** 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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DLA PIPER RUDNICK GRAY CARY US, LLP
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO, CA 92121-2133

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FEB 2 4 2005

OFFICE OF PETITIONS

In re Application of	:	
George Sachs, et al.	:	
Application No. 10/329,323	:	NOTICE
Filed: December 23, 2002	:	
Attorney Docket No. BRUG1100-1	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3201.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 4

PATENT ADMINISTRATOR
KATTEN MUCHIN ZAVIS ROSENMAN
525 WEST MONROE STREET
SUITE 1600
CHICAGO, IL 60661-3963

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APR 1 1 2003

OFFICE OF PETITIONS

In re Application of :
Van S. Chandler et al :
Application No. 10/329,391 : NOTICE
Filed: December 27, 2002 :
Attorney Docket No. 215063.203 :

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

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Young-Hwan Park
Hwaseo Jugong APT., #410-1005
Hwaseo-2dong, Changan-ku
Suwon city, Kyungki-do, 440-712,
Korea

In re Application of:
Young-Hwan Park
Application No. 10/329,446
Filed: December 27, 2002
Title of Invention: VOLUME CONTROL SYSTEM AND METHOD OF VOLUME CONTROL FOR PORTABLE COMPUTER

LETTER

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MAR 17 2003

OFFICE OF PETITIONS

Dear Mr. Park:

You are named as the inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the inventor.

As named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: STAAS & HALSEY LLP
700 11TH STREET, NW, SUITE 500
WASHINGTON, DC 20001

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Paper No. 3

STAAS & HALSEY LLP
700 11TH STREET, NW
SUITE 500
WASHINGTON, DC 20001

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OFFICE OF PETITIONS

In re Application of:
Young-Hwan Park
Application No. 10/329,446
Filed: December 27, 2002
Title of Invention: VOLUME CONTROL SYSTEM AND METHOD OF VOLUME CONTROL FOR PORTABLE COMPUTER

DECISION GRANTING STATUS UNDER 37 CFR 1.47(b)

This is in response to a Petition Under 37 C.F.R. 1.47(b), filed with the above-identified application on December 27, 2002, to allow a person to whom an inventor (or inventors) has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application for patent on behalf of and as agent for the inventor(s).

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

Petitioner has demonstrated that the non-signing inventor, Young-Hwan Park, cannot be found or reached after diligent effort.

As provided in Rule 1.47(b), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for continued processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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DIRECTORS OFFICE
AUG 22 2006
TECHNOLOGY CENTER 2800

Paper No. None

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of: Kyoung Su HA	:	
Application No. 10/329,470	:	
Filed: December 27, 2002	:	DECISION ON PETITION
Attorney Docket Number: 3449-0230P	:	UNDER 37 C.F.R. §1.181
Title: SUBSTRATE FOR LIQUID CRYSTAL DISPLAY	:	AND 37 C.F.R. §1.144

This is a decision on the petition filed July 5, 2006, Under 37 C.F.R. §1.144 to reconsider the restriction requirement filed November 30, 2005 and made final on April 20, 2006, and Under 37 C.F.R. §1.181 to withdraw both Office actions and require the Examiner to prepare and mail an Office action that treats all pending claims (i.e., claims 5-19) on their merits.

The petition filed July 5, 2006, Under 37 C.F.R. §1.144 to reconsider the restriction requirement filed November 30, 2005 and made final on April 20, 2006 raised the following points:

1) Applicant did not constructively elect the species comprising a second plurality of line-shaped fine grooves as a function of cancellation of claims 1-4,

2) Applicant states that inventions I and II are not unrelated inventions, but are in fact distinct and related as combination

and subcombination; and that the examiner failed to establish the required two-way distinctness,

3) Applicant states that the election of species was

(a) not timely in conformance with MPEP §808.01 [*sic* MPEP §808.01(a)],

(b) improperly stated in terms of claims and not embodiments,

(c) improperly formulated as being non-mutually exclusive in their characteristics

4) Applicant argues that there was no serious burden on behalf of the PTO to examine the entire application.

Regarding point one, it is noted that the issue of constructive election exists only after applicant presents claims directed to an invention distinct from and independent of the invention previously claimed after there has been an office action on an application (see MPEP §821.03 and 37 CFR 1.145). The record reveals that applicant never presented new claim. The examiner's contention is thus without basis in the MPEP and current rules of practice.

Regarding point three, our guidelines dictate that "a restriction requirement will normally be made before any action on the merits; however, it may be made at any time before final action." (see MPEP §811 and 37 CFR 1.142(a)). The record reveals that the first Office action mailed on March 24, 2004 contained a full search and examination of all claims based upon the prior art of record. (Note that this Office action never

states either directly or indirectly that claims 5-10 rejected under 35 USC 112, first paragraph, cannot or will not be examined with regards to the prior art made of record by the examiner.) Applicant subsequently filed an amendment on June 8, 2004 canceling claims 1-4 and amending claim 11 to remove all of the limitations directed to the specifics of the substrate (without properly correcting for lack of antecedents in dependent claims 12-16, and omitting dependent claims 17-19 from the listing of claims). The next Office action was made final and was mailed on November 29, 2004, and it is noted that the examiner did not set forth a restriction requirement therein. Applicant then proceeded to file an appeal brief on May 31, 2005 and a corrected appeal brief on August 29, 2005. The examiner followed the latter with a Restriction Requirement action on November 30, 2005 (well after final rejection), and thus clearly failed to follow the guidelines referred to above. Additionally, the 35 USC 112, first paragraph issues argued by the examiner with respect to the original and amended claims would not have prevented the examiner from examining all claims based upon the prior art (see MPEP §2163, where the methodology of examination is set forth in the first two paragraphs of Section III).

The untimeliness of this restriction requirement disposes of all other issues under 37 CFR 1.144 not specifically addressed.

Consequently, the Restriction Requirement Office action mailed November 30, 2005 and the subsequent Office action Non-Final

Rejection mailed April 20, 2006 were improper for the above reasons are thus hereby vacated.

Conclusion

For the reasons discussed above, the petition under both 37 CFR §1.144 and 37 CFR §1.181 is **GRANTED**.

The examiner is hereby directed to indicate in a forthcoming Office action that the Restriction Requirement Office action mailed November 30, 2005 and the subsequent Office action Non-Final Rejection mailed April 20, 2006 are vacated. The examiner is also directed to treat all pending claims on the merits.

Janice A. Falcone

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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OFFICE OF PETITIONS

In re Application of

H. Lee, et al. :

Application No. 10/329,473

: DECISION ON PETITION

Filed: December 27, 2002

:

Attorney Docket No. 8733.803.00-US

This is a decision on the petition under 37 CFR 1.137(b), filed October 25, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply in a timely manner to the final Office action mailed June 3, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. A response was filed on November 1, 2005, with a request for an extension of time within the second month. An Advisory Action mailed December 27, 2005, advised petitioner that the response of November 1, 2005, did not place the application in condition for allowance. The application became abandoned on July 18, 2006.

The Request for Continued Examination filed October 25, 2006, is noted and made of record.

The application is being forwarded to Technology Center 2600, GAU 2629 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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APR 27 2005

TECHNOLOGY CENTER 3600

Bacon & Thomas, PLLC
625 Slaters Lane
4th Floor
Alexandria, VA 22314

In re application of
Jack Wang
Application No. 10/329,569
Filed: December 27, 2002
For: PROTECTIVE STRAP FOR HANDLE SECONDARY FOIL

: **DECISION ON PETITION**
: **FOR EXTENSION OF**
: **TIME UNDER 37 CFR 1.136(b)**

This is in response to the petition filed on April 7, 2005 for a one month extension of time under 37 CFR 1.136(b).

The petition is **GRANTED**.

The requirements for granting a request for an extension of time under 37 CFR 1.136(b) are: (A) the provisions of 37 CFR 1.136(a) must not be available; (B) sufficient cause must be shown and a reasonable time to be extended specified; (C) the request must be filed on or before the day on which such a reply is due; and (D) must not attempt to extend a time period: (a) set in a Notice of Allowability, (b) to submit an oath or declaration in compliance with 37 CFR 1.63, (c) to submit formal drawings, or (d) to make a deposit of biological material. Furthermore, in no situation can any extension carry the date on which the reply is due beyond the maximum time period set by statute.

A review of the file indicates that in response to an Appeal Brief filed on December 29, 2004, the Office issued an Examiner's Answer containing a new ground of rejection. The Office action set a 2 month non-extendable response period for the appellant to either maintain the appeal by filing a Reply Brief or request a reopening of prosecution as outlined in 37 CFR 41.39.

The petition indicates that the attorney of record has not received timely guidance as to how to proceed from his foreign client and thus needs additional time to determine the appropriate course of action in this case. The petition also indicates that appellant's attorney has attempted to discuss the issue with the Group Director but was unable to reach the Director by telephone.

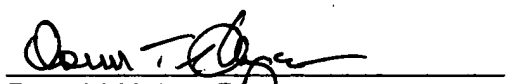
TC 3600 was recently involved in a move to our new Office location and for a number of weeks the telephone service was spotty and was probably the reason why the appellant was unable to contact the Group Director. Because of the difficulties encountered by the appellant in establishing communication with the Office due to the move, sufficient cause has been shown to grant a ONE month extension of time to respond to the outstanding Examiner's Answer.

The time period is hereby extended to run a total of 3 months from the mailing date of the Examiner's Answer and will run until May 7, 2005.

Inquiries related to this decision may be directed to Special Programs Examiner Steven N. Meyers at (571) 272-6611

SUMMARY: Petition for extension of time under 37 CFR 1.136(b) is **GRANTED**.

The Office will await appellant's reply to the February 7, 2005 Examiners Answer.



Donald Hajec, Director
Patent Technology Center 3600
(571) 272-5150

SM/SM; 4/26/05

SM

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OFFICE OF PETITIONS

TEXAS INSTRUMENTS INCORPORATED
PO BOX 655474, M/S 3999
DALLAS TX 75265

In re Application of :
Dale E. Hocevar :
Application No. 10/329,597 : ON PETITION
Filed: December 26, 2002 :
Attorney Docket No. TI-34484 :

This is a decision on the petition, filed August 9, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 10, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

The examiner of Technology Center AU 2138 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
ANDERSON, LEVINE & LINTEL
14785 PRESTON ROAD, SUITE 650
DALLAS, TX 75254

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COMMISSIONER FOR PATENTS
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Paper No. _____

Date : August 10, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Dale E. Hocevar
Application No. :10/329,597
Filed :December 26, 2002

The above-identified application has been assigned Patent No. 7,100,100 and an issue date of August 29, 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 August 29, 2006:

> "All reference to Patent No. 7,100,100 to Dale E. Hocevar of Texas for HARDWARE-EFFICIENT LOW DENSITY PARITY CHECK CODE FOR DIGITAL COMMUNICATIONS appearing in the Official Gazette of August 29, 2006 should be deleted since no patent was granted."

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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ATTN: WILLIAM M HANLON JR
YOUNG & BASILE PC
SUITE 624
3001 WEST BIG BEAVER ROAD
TROY MI 48084-3107

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OFFICE OF PETITIONS

In re Application	:	
Karl Blankenburg	:	
Application No. 10/329,617	:	DECISION ON APPLICATION
Filed: December 26, 2002	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. AMI-153-C	:	

This is a decision on the "NOTIFICATION OF POTENTIAL PATENT OFFICE ERROR IN CALCULATING PATENT TERM ADJUSTMENT" filed November 13, 2006. Applicant asserts that the initial determination of patent term adjustment under 35 U.S.C. 154(b) of eight hundred forty-one (841) days should be corrected.

The application for patent term adjustment is **DISMISSED**.

Applicants assert that the PTA may be three times that which is awarded. Applicants do not assert any particular justification as to why the determination is greater than applicants determination.

On October 4, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is eight hundred forty-one (841) days.

The Office initially determined a patent term adjustment of eight hundred forty-one (841) days based on an adjustment for PTO delay of eight hundred forty-four (844) days pursuant to 35 U.S.C. 154(b)(1)(C)(iii) and 37 C.F.R. § 1.703(e), reduced by three (3) days of applicant delay pursuant to 37 C.F.R. 1.704(b).

A review of the file reflects that the 844 days granted is accurate. Although the examiner was affirmed-in-part, at least one claim on every ground was reversed and accordingly, the applicant did have a successful appellate review under 37 CFR 1.702(e).[1] The Office finds the determination is correct.

If applicant continue to believe that they earned too much PTA, the Office advises applicants to expressly assert why they believe the PTA is greater than should be awarded.

The matter is being forwarded to the Office of Patent Publication for processing into a patent. The Office notes that any additional time pursuant to 37 CFR 1.702(a)(4) and 1.702(b) will be awarded at the time of the mailing of the issue notification letter.

Because applicant were submitting a letter of good faith and candor, no fee is assessed in this matter.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

[1]The period began on the date of the notice of appeal and ended on the date of the mailing of the decision..

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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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SEP 19 2005

COHEN & GRIGSBY, P.C.
11 STANWIX STREET
15TH FLOOR
PITTSBURGH, PA 15222

In re application of
Sundar Vallinayagam, et al.
Application No. 10/329,627 : DECISION ON REQUEST
Filed: December 26, 2002 : FOR WITHDRAWAL OF
For: METHOD AND SYSTEM TO : ATTORNEY
IMPLEMENT COMPLEX PRICING
RULES

This is a decision on the request filed on May 20, 2005, 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 conditions A) and B) above.

As to condition A) Attorney Gerald J. Iwanejko, Jr. was appointed initially, however, is not associated with Customer Number 30058. If only certain attorneys of record are to be withdrawn, any renewed request must clearly state so.

As to condition B) The reason stated in the request is not an acceptable reason for an attorney to withdraw. The client is assumed to be those who gave power of attorney, this case, the inventors. There is no record of the client being otherwise. Condition B can be met by clearly specifying one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1) or (c) (1)-(6).

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
571-272-6587

KJD/dcg: 7/14/05

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COHEN & GRIGSBY, P.C.
11 STANWIX STREET
15TH FLOOR
PITTSBURGH, PA 15241

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OFFICE OF PETITIONS

In re Application of :
Sundar Vallinayagam, et al. :
Application No. 10/329,627 : DECISION ON PETITION
Filed: December 26, 2002 : TO WITHDRAW
Attorney Docket No. 02-354 : 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 11, 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 Fredrick L. Tolhurst on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor 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 April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: SUNDAR VALLINAYAGAM
2312 MILL GROVE ROAD
PITTSBURGH, PA 15241

cc: DANIEL H. GOLUB, ESQ.
MORGAN, LEWIS & BOCKIUS, LLP
1701 MARKET STREET
PHILADELPHIA, PA 19103

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
10/329,627	12/26/2002	Sundar Vallinayagam	

CONFIRMATION NO. 9583

OC000000022792681

OC000000022792681

30058
COHEN & GRIGSBY, P.C.
11 STANWIX STREET
15TH FLOOR
PITTSBURGH, PA 15222

Date Mailed: 03/07/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/11/2006.

- 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.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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

August 2, 2005

Thomas K. Scherer
OSHA LIANG, LLP
1221 McKinney Street
Suite 2800
Houston, TX 77010

Patent No.: **6903637 B2**
Inventor(s): **Masaru Miyazaki, et al.**
Issued: June 7, 2005
Title: **CONNECTING MEMBER, A MICRO-SWITCH, A METHOD FOR MANUFACTURING A CONNECTING MEMBER, AND A METHOD FOR MANUFACTURING A MICRO-SWITCH**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(703) 872-9306 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Virginia Tolbert
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext 113** or (703) 308-8309

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Sep-06

OSHA LIANG L.L.P.
1221 MCKINNEY STREET
SUITE 2800
HOUSTON TX 77010

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SEP 0 8 2006
OFFICE OF PETITIONS

In re Patent No. 6,903,637 :
Issued: 7 June, 2005 :
Application No. 10/329,636 : ON PETITION
Filed: 26 December, 2002 :
Atty Docket No. 02008/099001; :
AD-0239PCTU :

This is a decision in reference to the petition filed on 23 August, 2005, which is being treated as a renewed request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

A draft certificate of correction was filed on 11 July, 2005.

The processing fee of $130.00 will be charged to counsel's deposit account, as authorized in the present petition.

The application is being referred to the Publishing Division for issuance of a Certificate of Correction.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] See Official Gazette of 22 June, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BEYER WEAVER & THOMAS LLP
P O BOX 70250
OAKLAND, CA 94612-0250

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JAN 18 2006

OFFICE OF PETITIONS

In re Application of
Kentaro Mori et al
Application No. 10/329,661
Filed: December 24, 2002
Attorney Docket No. OMRNP046

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND
: 37 CFR 1.55(c)

This is a decision on the petition, filed January 10, 2006 (which, in view of the evidence submitted, is being treated as having been received on July 5, 2005), which is being treated as both a petition under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) to accept an unintentionally delayed claim under 35 U.S.C. §§ 120, 365(c) and 119(a)-(d) for the benefit of priority to prior-filed international Application No. PCT/JP01/05672, filed June 29, 2001, as set forth in the amendment submitted September 6, 2005[1] and to Japanese Application Nos. 2000-199599, filed June 30, 2000 and 2000-344502, filed November 10, 2000.

The petitions are **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the above-noted, prior-filed PCT and foreign applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 37 CFR 1.55(a)(1)(i). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c).

Discussion of 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

[1] Petitioner's inclusion of an amendment to claim benefit of priority to the PCT application in the petition is improper and not in compliance with 37 CFR 1.121. However, it is noted that an appropriate amendment to the specification for benefit of the prior-filed PCT application was submitted on September 6, 2005.

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 PCT 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] (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed PCT application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

Discussion of Petition under 37 CFR 1.55(c)

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);**

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

Intermediate PCT Application No. PCT/JP01/05672 was filed on June 29, 2001, within twelve months of the Japanese foreign applications, which were filed on June 30, 2000 and November

---

[2] The amendment filed on September 6, 2005 also sets forth the claim for priority to two prior-filed foreign applications. However, the claim for benefit to the prior-filed foreign applications is more appropriately made in an oath or declaration or an Application Data Sheet and should not be included as part of an amendment to the first line of the specification.

applications, which were filed on June 30, 2000 and November 10, 2000. The declaration filed on December 24, 2002 also identifies the foreign applications for which priority is claimed by application number, country and filing date. The petition fee of $1,370 has been received. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is granted.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) and 35 § U.S.C. 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the examiner of Technology Center Art Unit 3764 for appropriate action on the amendment filed September 6, 2005, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed PCT application.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

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APR 2 8 2004

OFFICE OF PETITIONS

In re Application of :
Joon Lee Sung :
Application No. 10/329,679 : ON PETITION
Filed: December 27, 2002 :
Attorney Docket No. P68448US0 :

This is a decision in response to a communication filed April 27, 2004, requesting that the petition to withdraw from issue under 37 CFR 1.313(c)(2) and the Request for Continued Examination (RCE) filed April 26, 2004 in the above-identified application be disregarded.

Since the present communication was filed before a decision on the merits of the petition filed April 26, 2004, the request is granted.

The petition filed April 26, 2004 is **DISMISSED AS MOOT**.

The submission under 37 CFR 1.114 (RCE) will be placed in the application file without further consideration.

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being returned 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

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JACOBSON HOLMAN PLLC
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SUITE 600
WASHINGTON, DC 20004

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AUG 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Ho Yup Kwon :
Application No. 10/329,680 : ON PETITION
Filed: December 27, 2002 :
Attorney Docket No. P68464US0 :

This is a decision on the petition, filed August 5, 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 11, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 2818 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).

UNITED STATES 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 : January 29, 2007

Patent No. : 7,146,060
Inventor(s) : James M. CHICCHEILLO et al.
Issued : DECEMBER 5, 2006
Title :REAL-TIME CORRECTION OF PHASE DISTORTION
Doc/.File No. : 1215-0471P

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.322 and 1.323.

An error on a patent can be corrected by a certificate of correction, if appropriate. Accordingly, a petition under C.F.R. 1.182 is required to correct the alleged error concerning the inventor's names and addresses. Since this information is printed solely in accordance with the typewritten information provided on the Declaration, Oath or ADS, and since the error was the result of applicant's failure to comply with the requirement that the complete and correct information be provided accordingly, no correction is in order here under the provisions of Rules 1.322 or 1.323, unless a petition is granted.

However, a petition under 37 CFR 1.182 should be directed to the attention of the Assistant Commissioner for Patents using the following mailing address or FAX number.

By Mail: Commissioner of Patents and Trademarks
Box PETITIONS
P.O. Box 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 the petition under 37 CFR 1.182 is filed and granted the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100).

Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Cecelia B. Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9380 ext. 123

William L. Gates
Birch, Stewart, Kolash & Birch, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church , VA 22040-0747

CBN/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20037-3213

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JUL 12 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Satoru Tsutoh :
Application No. 10/329,758 :
Filed: December 27, 2002 :
Attorney Docket No. Q72761

This is a decision on the petition filed, July 5, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 5, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3651 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).

UNITED STATES 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 9, 2010

Patent No. :6810297
Ser. No. :10/329759
Inventor(s) :Raanan ADIN et al.
Issued :October 26, 2004
Title :SYSTEM AND METHODS FOR IMAGING EMPLOYING A LEVITATING
:CONVEYOR

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. the processing fee set forth in 37 CFR 1. 17(i) (currently $130);
B. **a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and**
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(703) 872-9306 ATTN: Office of Petitions
Electronic Filing	uspto.gov/ebc/index.html (must be registered as an e-filer to submit responses) Support 1-866-217-9197 571-272-4100

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

A certificate of correction will be issued to correct the remaining errors noted in your request.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756-1544

William H. Mandir
SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, NW
Washington DC 20037-3213

/arg

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OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of :

WEIGAND, Gilbert G. :
Application No. 10/329,766 : DECISION ON PETITION
Filed: December 27, 2002 : TO WITHDRAW
Attorney Docket No. **06975-305001/ Ultravox 08** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 14, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, changed law firms and no longer employed at Fish & Richardson, does not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Monica A. Graves
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. 5

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

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JUN 17 2003

OFFICE OF PETITIONS

In re Application of :
Gambaro, et al. :
Application No. 10/329,771 :
Filed: December 27, 2002 : ON PETITION
Attorney Docket No.: 060953-0133 :

This is a decision on the petition filed April 11, 2003 requesting that the above-identified application be accorded a filing date of December 27, 2002.

The above-referenced application was filed December 27, 2002. A Notice of Incomplete Nonprovisional Application ("Notice") was mailed April 3, 2003. The Notice indicated the application had not been accorded a filing date because the application was deposited without drawings in accordance with 35 USC 113. The Notice indicated the filing date would be the date of receipt of the required drawings. Any assertion that the drawings were in fact submitted or are unnecessary for a filing date must be by way of petition.

Petitioner argues that drawings are not necessary for an understanding of the subject matter sought to be patented and requests that the application be accorded a filing date of December 27, 2002. Moreover, the application as filed included a preliminary amendment canceling reference all reference in the specification to the drawings.

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a non-provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence).

Moreover, MPEP 601.01(f) 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 and the names of all the inventors.

A review of the official file reveals that the application includes 3 method claims. In view of the above, the "Notice" mailed April 3, 2003 was mailed in error and is hereby withdrawn.

The application will be processed with only the papers present on filing and is hereby accorded a filing date of December 27, 2002, without drawings as part of the original disclosure.

The petition fee of $130.00 is unnecessary and has been refunded to petitioner's Deposit Account.

The application is being returned to the Office of Initial Patent Examination for reprocessing with a filing date of December 27, 2002, using the application papers filed on that date, and an indication in PTO records to show that zero (0) sheets of drawings were present on filing.

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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United States Patent and Trademark Office
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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In re Application of	:	
Johnson, Frank S.	:	
Application No. 10/329,783	:	ON PETITION
Filed: December 27, 2002	:	
Attorney Docket No. TI-26567.1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 3, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fee, along with Replacement Drawings, (2) the petition fee, and (3) a proper statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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:

WADE JAMES BRADY, III
7839 CHURCHILL WAY, MS 3999
DALLAS, TX 75251

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/18/05 **Paper No.:** —

TO SPE OF : ART UNIT ~~2821~~ 2828

SUBJECT : Request for Certificate of Correction on Patent No.: 6802627

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Virginia Tolbert

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 — 2828 **Art Unit**

PTO/SB/44 (07-03)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office: U.S. Department of Commerce
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO : 6,802,627 B2

DATED : October 12, 2004

INVENTOR(S) : Jerry F. FISCHER et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Claim 7, lines 6-7, delete "clamping mechanisms,". Insert --clamping mechanism--.

Claim 15, line 14, delete "received". Insert --receive--.

Claim 16, line 24, delete "received". Insert --receive--.

MAILING ADDRESS OF SENDER: HASSE GUTTAG & NESBITT LLC
7550 CENTRAL PARK BLVD.
MASON, OH 45040

PATENT NO. 6,802,627 B2

No. of additional copies

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the needs of 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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www.uspto.gov

FISH & NEAVE IP GROUP
ROPES & GRAY LLP
1251 AVENUE OF THE AMERICAS FL C3
NEW YORK NY 10020-1105

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JUL 18 2006

OFFICE OF PETITIONS

In re Application of :
Ginsberg et al. :
Application No. 10/329,809 : ON PETITION
Filed: December 24, 2002 :
Attorney Docket No. CF-44 :

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 26, 2006, 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 applicant's driver's license. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206. 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 3624 for action on the merits commensurate with this decision.

Liana Chase
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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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

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MAR 3 1 2008

In re Application of :

GINSBERG, Philip et al. :
Application No. 10/329,809 : DECISION ON PETITION
Filed: December 24, 2002 : TO WITHDRAW
Attorney Docket No. **01-1044** : 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 19, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Laurence Rogers on behalf of all attorneys of record who are associated with customer No. 64558. All attorneys/agents associated with the Customer Number 64558 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **PHILIP GINSBERG**
2186 PLEASANT PROSPECT
EASTVILLE, VA 23347

cc: **DEAN P. ALDERUCCI**
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

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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UNILEVER INTELLECTUAL PROPERTY GROUP
700 SYLVAN AVENUE,
BLDG C2 SOUTH
ENGLEWOOD CLIFFS NJ 07632-3100

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DEC 19 2007

OFFICE OF PETITIONS

In re Application of :
HUBERTUS LEONARDUS LELIEVELD :
Application No. 10/329,841 : DECISION ON PETITION
Filed: 12/26/2002 :
Attorney Docket No. F6164(V) :

This is a decision on the petition filed October 12, 2007, to withdraw the holding of abandonment for the above-identified application.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed March 23, 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 24, 2007. The Office mailed a Notice of Abandonment on October 12, 2007.

In the present petition, the practitioner requested that the Office withdraw the holding of abandonment due to non-receipt of the final Office Action.

A review of the record indicates no irregularity in the mailing of the final Office Action, and in the absence of any irregularity in the mailing, there is a strong presumption that the final Office Action was properly mailed to the address of record. This presumption may be overcome by a showing that the final Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See MPEP 711.03(c)(I)(A). For example, if a three-month period for reply was set in the non-received Office communication, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office communication must be submitted as documentary proof of non-receipt of the Office communication. The showing outlined above may not be sufficient if there are circumstances

that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail (*e.g.* if the practitioner has a history of not receiving Office communications).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. The practitioner for applicant submitted copies of docket records where the final Office Action would have been entered had it been received and docketed. The practitioner attested to the fact that a search of the file jacket and docket records indicated that the final Office Action was not received. Accordingly, applicant presented the required showing under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**. The holding of abandonment is withdrawn and the application will be restored to pending status. No petition fee is required.

With the present petition, applicant filed an amendment. As stated in the enclosed Advisory Action, the Examiner determined that the amendment did not *prima facie* places the application in condition for allowance. Nevertheless, applicant also submitted a Notice of Appeal in with the petition, which is an appropriate response to a final Office Action. **Accordingly, 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 Office will charge the $255.00 notice of appeal fee to the Deposit Account as authorized.

The matter is being referred to the Technology Center AU 1794 to await the filing of an appeal brief within the extendable period of two-months from the mail date of this decision.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Advisory Action

Conferee: Brian Hearn

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/329,841	Applicant(s) LELIEVELD ET AL.	
	Examiner Drew E. Becker	Art Unit 1794	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 October 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on *12 October 2007*. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *the new issues include cooking and mixing*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1, 3-6, 8-15, 17-23*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 7.

Avery N. Goldstein
Gifford, Krass, Groh, Sprinkle, Anderson & Citkowski, P.C.
280 N. Old Woodward Avenue
Suite 400
Birmingham, MI 48009-5394

MAILED

APR 30 2004

Technology Center 2100

In re Application of:
Dimitri Dozortsev
Application No. 10/329,873
Filed: December 26, 2002
For: SYSTEM AND METHOD OF ENFORCING EXECUTABLE CODE IDENTITY VERIFICATION OVER THE NETWORK

DECISION ON PETITION TO MAKE SPECIAL UNDER M.P.E.P. §708.02(II)

This is a decision on the petition, filed 22 March 2004, requesting the grant of special status based on M.P.E.P. §708.02, Section II (Infringement).

M.P.E.P. §708.02, Section II sets out the prerequisites for a grantable petition of a special status based on actual infringement and states in relevant part:

> Subject to a requirement for a further showing as may be necessitated by the facts of a particular case, an application may be made special because of actual infringement (but not for prospective infringement) upon payment of the fee under 37 CFR 1.17(h) and the filing of a petition accompanied by a statement by the applicant, assignee, or an 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'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 examination.

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

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Paper No. 5

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MAY 15 2003

OFFICE OF PETITIONS

Supreme Patent Services
Post Office Box 2339
Saratoga, CA 95070-0339

In re Application of :
Wei :
Application No. 10/329,896 : DECISION GRANTING
Filed: December 26, 2002 : PETITION
Attorney Docket No. 02233-URSX :

This is a decision on the petition filed April 28, 2003, to establish that Figure 4 was part of the originally filed application.

On December 26, 2002, the application was filed.

On April 2, 2003, the Office of Initial Patent Examination mailed a Notice stating that the application had been accorded a filing date of December 26, 2002, and advising applicants that Figure 4 described in the specification appeared to have been omitted.

In response, the present petition was filed alleging that Figure 4 was deposited on December 26, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of 9 sheets of drawings on December 26, 2002.[1] A review of the file only indicates the presence of 8 sheets of drawings. Therefore, petitioner has established that the application papers deposited on December 26, 2002, included sheet 4 containing Figure 4, and that Figure 4 was subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of Figure 4 submitted with the petition will be used for examination purposes.

No petition fee is required and none has been charged.

The Notice mailed April 2, 2003, was sent in error and is hereby vacated.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 26, 2002, using the application papers filed on December 26, 2002, and the copy of Figure 4 filed on April 28, 2003.

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 2

DATE : 10/06/07

TO SPE OF : ART UNIT 2833

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/329913** Patent No.: **6812150**

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: All the changes have been approved

Marvin S Smith — **SPE**

2823 — **Art Unit**

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DEC 0 3 2004

TECHNOLOGY CENTER 3600

POSZ & BETHARDS, PLC
11250 ROGER BACON DRIVE
SUITE 10
RESTON, VA 20190

In re application of : **DECISION ON PETITION**
Eva T. Kilvington et al. : **TO MAKE SPECIAL**
Application No. 10/329,921 : **(APPLICANT'S AGE)**
Filed: December 27, 2002 :
For: ELECTRONIC REALTY AND TRANSACTION SYSTEM AND METHOD THEREIN

This is a decision on the petition submitted on October 18, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a signed declaration and drivers license indicating Ms. Kilvington is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/slb: 11/01/04

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POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE, SUITE 101
RESTON, VA 20191

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SEP 0 5 2008

OFFICE OF PETITIONS

In re Application of
Eva T. **KLIVINGTON,** et al
Application No. 10/329,921
Filed: December 27, 2002
Attorney Docket No. 105-002

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 13, 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 David G. Posz on behalf of all attorneys associated with Customer Number 23400.

All attorneys of record associated with Customer Number 23400 have been withdrawn.

The correspondence address of record has been changed and the new address is indicated below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: EVA KLIVINGTON
C/O REALTY TOWEB
3709 CENTER WAY
FAIRFAX, VA 22033

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 5

BROOKS & KUSHMAN P.C. / LEAR CORPORATION
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075-1238

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AUG 2 9 2003

OFFICE OF PETITIONS

In re Application of:
Bruce F. Brewster, John Pirie Hill, Dhananjay B. Kulkarni, Thomas J. Hughes and Mathew Brian LaCourse
Application No. 10/329,951
Filed: December 26, 2002
Title of Invention: HEADPHONE FOR WIRELESS USE WITH AUTHENTICATION/ENCRYPTION

DECISION GRANTING STATUS UNDER 37 CFR 1.47

This is in response to Petition for Filing by Joint Inventors on Behalf of Unavailable Inventor Pursuant to 37 C.F.R. 1.47(a), 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 inventor, John Pirie Hill, refuses to sign the declaration.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center Art Unit 2131 for continued processing in due course.

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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KD

FISH & RICHARDSON P.C.
1425 K STREET, N.W.
11TH FLOOR
WASHINGTON, DC 20005-3500

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JUN 15 2004

OFFICE OF PETITIONS

In re Application of :
Satoshi Murakami, et al. :
Application No. 10/329,953 : ON PETITION
Filed: December 27, 2002 :
Attorney Docket No. 12732-134001 :

This is a decision on the petition, filed June 1, 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 relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 2826 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

10/329960

DO NOT SEND TO WAREHOUSE

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : DEC - 6 2004

Paper No.: _____

TO SPE OF : ART UNIT 2857

SUBJECT : Request for Certificate of Correction on Patent No.: 6742927

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.

Should changes be made?

RoChaun Johnson
308-6803

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:

OK to make changes. M. Jagan 3-8-05

ANDREW H. HIRSHFELD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

2859

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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MAY 18 2006

OFFICE OF PETITIONS

In re Application of :
Mark Phillip D'Evelyn et al :
Application No. 10/329,982 : DECISION ON PETITION
Filed: December 27, 2002 : TO WITHDRAW
Attorney Docket No. RD-29634-1 : 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 September 26, 2005.

The petition is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney appearing in the oath filed on December 27, 2002, to Michael D. Kaminski, along with all of the other attorneys associated with the law firm of Foley & Lardner (Customer No. **22428**), has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. §1.36(b) is **moot**.

All future communications from the Office will continue to be directed to the below-listed address of record until otherwise notified by applicant.

This application is being referred to Technology Center AU 2812 to consider the Appeal Brief filed April 10, 2006.

Telephone inquiries concerning this decision should be directed to Karen Creasy at 571-272- 3208.

Amelia Au
Petitions Examiner
Office of Petitions

cc:

GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH
PATENT DOCKET RM. BLDG. K1-4A59
1 RESEARCH CIRCLE
NISKAYUNA NY 12309

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/16/2006

TO SPE OF : ART UNIT 1700 (1752)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,916,601

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Ok to make changes to claims as req. in C of C?

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:

CYNTHIA H. KELLY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

Cynthia H. Kelly
SPE

1752
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY & POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

Mail Date: 05/07/2010

Applicant	: Stephan Klevenz	: DECISION ON REQUEST FOR
Patent Number	: 7620908	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/330,036	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/26/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **974** 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.

#5
7-1-03

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFI
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JUL 01 2003

TECHNOLOGY CENTER 2100

Paper No. 5

Paul J. Skwierawski
ANTONELLI, TERRY, STOUT &
KRAUS, LLP
1300 North Seventeenth Street, Suite 1800
Arlington, VA 22209

In re Application of:)
Falconer, et al.)
Application No. 10/330,053) **DECISION ON REQUEST FOR**
Filed: December 30, 2002) **WITHDRAWAL AS ATTORNEY**
For: SAME EDGE STROBING FOR) SOURCE SYNCHRONOUS BUS SYSTEMS

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

for Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Anne Richards
SCHWEGMAN, LUNDBERT, WOESSNER &
KLUTH P.A.
1600 TCF Tower
121 S. 8th Street
Minneapolis, MN 55402

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DIW May-05

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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MAY 27 2005

OFFICE OF PETITIONS

In re Patent No. 6,827,879 :
Issued: 7 December, 2004 :
Application No. 10/330,094 : ON PETITION
Filed: 30 December, 2002 :
Atty Docket No. 232347USXDIV :

This is a decision on the petition filed on 1 February, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] See Official Gazette of 22 June, 2004.

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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BORDEN LADNER GERVAIS LLP
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA, CANADA K1P 1J9

MAILED

MAY 28 2003

Director's Office
Group 3700

Paper No. 4

In re Application of
BLACQUIERE ET AL.
Application No.: 10/330,100
Filed: December 30, 2002

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed April 7, 2003 to make special under 37 CFR 1.102(c).

Since the requirements of 37 CFR 1.102(c) and MPEP 708.02, V and VI have been met, the petition is granted.

The application is being forwarded to the examiner for an action on the merits.

Linda J. Sholl
Special Program Examiner
Technology Center 3700
Phone: (703) 308-1288

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,924,864	2005-08-02	10/330,124	2002-12-30	8733.797.00

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Eric J. Nuss/	Date (YYYY-MM-DD)	2009-11-11
Name	Eric J. Nuss	Registration Number	40106

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 6924864
Issue Date: August 2,2005
Application No. 10330124
Filed: December 30,2002
Attorney Docket No. 8733.797.00

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 11,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 11,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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TROXELL LAW OFFICE PLLC
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH VA 22041

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MAR 15 2010

In re Patent No. 7,027,386 :
Issue Date: April 11, 2006 :
Application No. 10/330,151 : NOTICE
Filed: December 30, 2002 :
Attorney Docket No. BHT-3230-22 :

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**.

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 Diane Goodwyn at (571) 272-6735.

/Thurman K Page/

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: BENJAMIN J. HAUPTMAN
1700 DIAGONAL ROAD
SUITE 310
ALEXANDRIA, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

UNITY SEMICONDUCTOR
CORPORATION
250 NORTH WOLFE ROAD
SUNNYVALE CA 94085

COPY MAILED

DEC 15 2005

OFFICE OF PETITIONS

In re Patent No. 6,834,008	:	DECISION ON REQUEST
Rinerson et al.	:	FOR RECONSIDERATION OF
Issue Date: December 21, 2004	:	PATENT TERM ADJUSTMENT
Application No. 10/330,153	:	and
Filed: December 26, 2002	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. UNTYP003	:	CERTIFICATE OF CORRECTION

This is a decision on the "Application for Patent Term Adjustment under 37 CFR § 1.705(d)," filed January 20, 2005. Patentees request that the patent term adjustment indicated in the patent be corrected from zero (0) days to one hundred one (101) days.

The request for reconsideration of the patent term adjustment under § 1.705(d) is **GRANTED** to the extent indicated herein.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one hundred **(100)** days.

On December 21, 2004, the above-identified application matured into U.S. Patent No. 6,834,008. The instant request for reconsideration filed January 20, 2005 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The patent issued with a revised Patent Term Adjustment of 0 days.

Patentees contend that the patent term adjustment is 101 days as follows: The adjustment due to examination delay is 171 days under § 1.702(a)(4) reduced by applicant delay of 70 days under § 1.704(c)(10). Specifically, the Office received an amendment on March 3, 2004. A response to the amendment was mailed 70 days later on May 12, 2004. In effect, patentees dispute the entry of an additional period of reduction of 120 days for the filing of an amendment on May 12, 2004.

A review of the application history reveals that the reduction of 120 days for the filing of an amendment on May 12, 2004 is not warranted. No amendment was filed on May 12, 2004. The amendment attributed that date is a copy of the amendment filed March 3, 2004.

However, the total period of adjustment pursuant to § 1.704(c)(10) is 71 days, not 70 days. After the mailing of the notice of allowance, then applicants filed the amendment on March 3, 2004 and a request to rescind nonpublication request on May 10, 2004. The Office mailed a response to the request to rescind on the same day it was filed, May 10, 2004; and a response to the amendment on May 12, 2004. Thus, the period of reduction is 71 days, counting the number of days beginning on the date the amendment under § 1.312 was filed, March 3, 2004, and ending on the mailing date of the Office action in response to the amendment under § 1.312, May 12, 2004. The period of delay related to the filing of the request to rescind overlaps with this period. Thus, the total period of reduction under 1.704(c)(10) is 71 days.

In view thereof, the patent term adjustment indicated in the patent should be one hundred (100) days.

The Office acknowledges submission of the $200 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by ONE HUNDRED (100) days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ———

DATE : ~~10/11/05~~ 7/18/06

TO SPE OF : ART UNIT 2828

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/330155 Patent No.: 6933893B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Virginia Tolbert

Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

MINSUN OH HARVEY
PRIMARY EXAMINER

2829
Art Unit

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ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS MO 63102

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FEB 08 2006

OFFICE OF PETITIONS

In re Application	:	
Syverson, et al.	:	
Application No. 10/330,156	:	DECISION ON APPLICATION
Filed: June 25, 2004	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. KCC 4752.3	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705," filed June 25, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to nine (9) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **nine (9) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On May 7, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is

zero (0) days. On June 25, 2004, Applicants timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is nine (9) days.

Applicants assert entitlement to a patent term adjustment of nine (9) days on the basis that the PTO should have been assessed delay of nine (9) days for failure to timely issue an Office action within four months after the date a reply under 37 CFR 1.111 was filed.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

The application was filed on December 27, 2002. A first Office action was timely mailed within fourteen (14) months, pursuant to 37 C.F.R. 1.702(a)(1), on September 16, 2003. Applicants then timely filed their response within the three month period provided for in 37 C.F.R. 1.704(b) on October 9, 2003. Pursuant to 37 C.F.R. 1.702(a)(2), the Office had until February 9, 2004 to mail a response. The response was not mailed until February 17, 2004. Accordingly, PTO delay of nine (9) days should have been assessed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **nine (9) days** (9 days of PTO delay reduced by 0 days of applicant delay).

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 19-1345, as authorized.

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Revised PAIR Screen

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[1] Applicants filed the application for patent term adjustment prior to the filing of the issue fee.

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SENNIGER POWERS
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS MO 63102

COPY MAILED

OCT 31 2005

OFFICE OF PETITIONS

In re	:
Syverson, et al.	: DECISION REGARDING
Application No. 10/330,156	: PATENT TERM ADJUSTMENT
Filed: December 27, 2002	: AND
Patent No. 6,911,480	: NOTICE OF INTENT TO ISSUE
Issued: June 28, 2005	: CERTIFICATE OF CORRECTION

This decision is in response to the "LETTER REGARDING ERROR IN PATENT TERM ADJUSTMENT", filed August 3, 2005, notifying the Office of an error in Patentees' favor in the patent term adjustment.

The request is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **two hundred twenty-two (222) days**.

On May 4, 2004, the Office mailed the Determination of Patent Term Adjustment. The notice indicated a patent term adjustment of zero (0) days. On June 25, 2004, applicants filed an application for patent term adjustment, stating that the patent term adjustment should be nine (9) days. The application for patent term adjustment was granted in a decision mailed on February 8, 2005.

On June 28, 2005, the above-identified application matured into U.S. Patent No. 6,911,480. The patent issued with a Patent Term Adjustment of two hundred thirty-one (231) days.

A review of the file reveals that the Office erroneously twice accorded PTO delay of nine (9) days.

In view thereof, the correct determination of patent term adjustment is **two hundred twenty-two (222) days** (222 (213+9) days of PTO delay, and 0 days of applicant delay).

Accordingly, issuance of a certificate of correction pursuant to 35 U.S.C. 254 and 37 C.F.R. § 1.322 is appropriate.

Give the basis for granting this decision, no fee is required and none has been charged. The Office thanks Patentees for their good faith and candor in bringing this matter to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. 254 and 37 C.F.R. §1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **two hundred twenty-two (222) days,** subject to any disclaimers.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 7

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP
1300 I STREET, NW
WASHINGTON DC 20005

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JUN 23 2003

OFFICE OF PETITIONS

In re Application of
McManus, et al.
Application No. 10/330,212
Filed: December 30, 2002
Attorney Docket No. 05997.0022-01
For: SYSTEMS AND METHODS FOR DETERMINING THE VALUE OF ASSETS

: DECISION GRANTING
: PETITION

This is a decision on the petition, filed May 19, 2003, requesting, in effect, withdrawal of the Notice of Omitted Item(s) in a Nonprovisional Application (Notice), mailed April 17, 2003.

The application was filed on December 30, 2002. On April 17, 2003, the Office of Initial Patent Examination mailed a Notice informing petitioners that page 40 of the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that page 40 be accorded a filing date of December 30, 2002 on the basis that the entire specification, including allegedly missing page 40, was received in the Patent and Trademark Office (PTO) on December 30, 2002. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing December 30, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 57 pages of original application including Abstract. A review of the application file reveals that there are 56 pages present. Page 40 is missing.

The return postcard constitutes *prima facie* evidence that 57 pages of original application, including page 40, was filed on December 30, 2002. MPEP 503. Accordingly, the request is **GRANTED**.

The $130.00 petition fee will be credited to deposit account, no. 06-0916.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of December 30, 2002, using the copy of page 40 supplied with the petition.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

MAR 25 2005

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MAR 25 2005

OFFICE OF THE DIRECTOR
TC 3600

Pol Raikin
Hotel Argaman 65
P.O. Box 2680
Akko,
24126
Israel

In re Application of :
Pol Raikin :
Application No. 10/330,227 :
Filed: December 30, 2002 :
For: DEVICE AND EQUIPMENT FOR BIKING UPRIGHT

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on December 14, 2004.

The petition is **DENIED**.

A review of the file record reveals that an After-Final response to the final Office action of November 4, 2003 was filed with the Office on January 29, 2004. An advisory action was mailed to applicant March 2, 2004 informing applicant of non-entry of the After-Final amendment of January 29, 2004. Subsequently applicant submitted another After-Final amendment of April 22, 2004; however, no extension of time or fee paid for the extension of time was filed with the After-Final amendment of April 22, 2004. A phone call was placed to applicant on April 29, 2004 informing applicant of the need to pay the fees for the extension of time. However, applicant did not pay the necessary fees. The application went abandoned on May 4, 2004 and a notice to that effect was mailed on August 16, 2004. Applicant should have followed up with the office prior to the expiration of the six-month time period associated with the Final rejection. Thus, the case is properly abandoned.

Applicant's petition, and evidence submitted, is insufficient to withdraw the holding of abandonment. In this regard, while it is unfortunate and regrettable that applicant could have extended the time period for up to six-months by paying the necessary fees, no such action or authorization by applicant was provided to the office.

Thus, there is no Office error and the application is properly abandoned.

Applicants 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 $500. The fee for a petition under the unintentional standard is $1,500. If applicants have, 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 (571) 272-3282.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/jwk: 3/22/05

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POL RAIKIN
HOTEL ARGAMAN 65
PO BOX 2680
AKKO 24126
ISRAEL

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OFFICE OF PETITIONS

In re Application of	:	
Pol Raikin	:	
Application No. 10/330,227	:	ON PETITION
Filed: December 30, 2002	:	
Title: Device and Equipment for Biking Upright	:	

This is a decision on the petition to revive the abandoned application under 37 CFR 1.137(a), filed June 14, 2005.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)."

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed November 4, 2003. This Office action set a shortened statutory period for reply of three (3) months. Applicant filed a response on January 29, 2004, but by Advisory Action mailed March 2, 2004, the Examiner advised Applicant that the response would not be entered because it was not submitted in the proper format. No further reply with an extension of time under 37 CFR 1.136(a) having been received, the above-identified application became abandoned on February 5, 2004. A Notice of Abandonment was mailed on August 16, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee required by 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)) as required pursuant to 37 CFR 1.137(d). The instant petition lacks items (1) and (3).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

Moreover, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[2]

As to requirement (3), petitioner has not met his burden of establishing that the delay was unavoidable. Petitioner has not presented **any** evidence as to why he was unavoidably prevented from timely filing a proper response to the November 4, 2003 Office action.

As to requirement (1), petitioner has not submitted a reply that *prima facie* places the application in condition for allowance.

On renewed petition, petitioner must submit a proper reply in response to the final Office action mailed November 4, 2003. The proposed reply to a final Office action required for consideration of a petition to revive must be either (1) a Notice of Appeal (and fee required by law); (2) an amendment that *prima facie* places the application in condition for allowance; (3) the filing of a continuing application under 37 CFR 1.53(b) or if

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[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[2] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

applicable, 1.53(d); or (4) a request for a continuing examination (RCE) under 37 CFR 1.114.

If petitioner can not meet the showing required to establish unavoidable delay, petitioner may seek to revive the application under 37 CFR 1.137(b) - unintentional delay. A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(m), currently $750 for a small entity; (3) a **statement** that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop 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 decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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FU-TIEN LIU & PING-TUNG SU
P.O. BOX No. 6-57
JUNGHE
TAIPEI 235, TW TAIWAN

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SEP 2 6 2005
OFFICE OF PETITIONS

In re Patent No. 6,834,659 :
Issued: December 28, 2004 :
Application No. 10/330,235 : ON PETITION
Filed: December 30, 2002 :
Title: RIB ASSEMBLY FOR MULTI-FOLDABLE UMBRELLA :

This is a decision on the petition under 37 CFR 1.182, filed September 7, 2005, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

The file record discloses that the instant application matured into U.S. Patent No. 6,834,659 on December 28, 2004. However, petitioner contends that the patent was never received and it is presumed lost in the mail.

In view of the facts set forth in the petition, it is concluded that the patent was never received.

The $130.00 petition fee is unnecessary and will be refunded via treasury check in due course.

The Publishing Division is directed to issue a duplicate Letters Patent.

Any questions concerning this matter may be directed to Paralegal Liana Chase at (571) 272-3206. Any questions concerning issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 305-9250.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Krystal Paige, P/OPPD, South Tower 8C32 (FAX 703-746-4642)

UNITED STATES PATENT AND TRADEMARK OFFICE

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082404

ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON DC 20006

In re Application of:
Hosogoe Takashi et al.
Serial No.: 10/330,277
Filed: December 30, 2002
For: **IC CARD TERMINAL**

DECISION *SUA SPONTE*
WITHDRAWING HOLDING
OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

A Notice of Allowance and Fee(s) Due (Notice of Allowance) was mailed on March 3, 2004, setting a three-month statutory period for paying the fees. In an apparent failure to receive a payment of the required fees, the application was held abandoned and a Notice of Abandonment was mailed on July 26, 2004.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the Notice of Abandonment is hereby vacated, the holding of abandonment withdrawn and the application restored to pending status in view of the fact that the Notice of Allowance and the Notice of Abandonment were not mailed to the proper correspondence address of record. The file record reveals that a change of address was mistakenly processed on September 23, 2003 processed for this application. The change of address was erroneously processed resulting in the Notice of Allowance being mailed to an incorrect address. Because the Notice of Allowance was not mailed to the correct address of record, applicant was not duly served notice that a reply to an Office action was required. The application is not abandoned in fact. Inconvenience to the applicant is regretted.

The technical support staff will remail the Notice of Allowance. The statutory period for paying the required fees will be reset to run from the date the Notice is remailed.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Janice A. Falcone, Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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082404

ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON DC 20006

DEC 13 2004

In re Application of:
Hosogoe Takashi et al.
Serial No.: 10/330,277
Filed: December 30, 2002
For: **IC CARD TERMINAL**

DECISION *SUA SPONTE*
WITHDRAWING HOLDING
OF ABANDONMENT

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Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Janice A. Falcone, Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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OFFICE OF PETITIONS

In re Application of :
Houze et al. :
Application No. 10/330,281 : LETTER REGARDING
Filed: December 30, 2002 : PATENT TERM ADJUSTMENT
Atty Docket No. 041457-0669 :

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT" filed July 31, 2008. Pursuant to applicants' duty of good faith and candor to the Office, applicants disclose that the initial determination of patent term adjustment mailed with the Notice of Allowance of three hundred sixty-three (363) days disagrees with applicants' calculation.

The request for correction of the initial determination of patent term adjustment (PTA) is **DISMISSED.**

On May 1, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 363 days. Applicants state no basis for their disclosure.

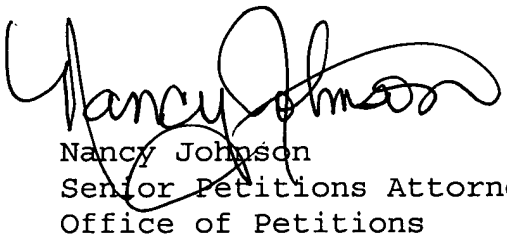
The application history has been reviewed and it has been decided that the determination of patent term adjustment is correct. As of the mailing of the notice of allowance, no additional reduction for applicant delay is warranted.

As this letter was submitted as an attempt to advise the Office of an error in Applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants

for their good faith and candor in bringing this to the attention of the Office.

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded to the Office of Patent Publication for issuance of the application. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Won-Ho Lee :
Application No. 10/330,287 :
Filed: December 30, 2002 :
Attorney Docket No. 3887-0126P :

This is a decision on the petition under 37 CFR 1.313(c)(1-3), filed September 3, 2004, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on 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 should be directed to Wan Laymon at (703) 306-5685.

This matter is being referred to Technology Center AU 2822 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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JOE MCKINNEY MUNCY
PO BOX 1364
FAIRFAX, VA 22038-1364

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FEB 2 0 2009

OFFICE OF PETITIONS

In re Patent No. 6,937,214 :
Issue Date: August 30, 2005 :
Application No. 10/330,294 : NOTICE
Filed: December 30, 2002 :
Attorney Docket No. 2450-0339P :

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 April M. Wise at (571) 272-1642.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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WINSTON & STRAWN
PATENT DEPARTMENT
1400 L STREET, N.W.
WASHINGTON, DC 20005-3502

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OFFICE OF PETITIONS

In re Application of :
Antoine Neveux et al :
Application No. 10/330,309 :
Filed: December 30, 2002 :
Attorney Docket No. 85170-4200

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center AU 2632.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent Services
Honeywell International Inc.
101 Columbia Road
PO Box 2245
Morristown, NJ 07962

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MAY 10 2006

OFFICE OF PETITIONS

In re Application of :
Neveux, et al. : ON PETITION
Application No. 10/330,309 :
Filed: December 30, 2002 :
Attorney Docket No. 85170-4200 :

This is a decision on the petition under 37 CFR §1.137(b), April 24, 2006, to revive the above-identified application.

The petition is **granted**.

The 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 21, 2005. The Notice set forth a three (3) month statutory period for reply. The application became abandoned on October 22, 2005. A Notice of Abandonment was mailed on February 7, 2006.

The issue fee of $1400.00 and publication fee of $300.00 were received and made of record.

The "Change of Attorney or Agent's Address in Application" filed April 24, 2005, is noted and made of record.

The application is being directed 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

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P.O. BOX 272400
FORT COLLINS, CO 80527-2400

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SEP 0 7 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
M. Lynn Chaney, et al. :
Application No. 10/330,344 :
Filed: December 27, 2002 :
Attorney Docket No. 100111738-1 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 26, 2004 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 Scott A. Lund 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. Lund 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. Lund, 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 June 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]

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being forwarded to Technology Center AU 2861 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: SCOTT A.LUND
DICKE, BILLIG & CZAJA, PLLC
FIFTH STREET TOWERS, SUITE 2250
100 SOUTH FIFTH STREET
MINNEAPOLIS, MN 55402

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BELLSOUTH I.P. CORP
100 GALLERIA PARKWAY
SUITE 1750
ATLANTA, GA 30339

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OCT 31 2006

OFFICE OF PETITIONS

In re Application of :
La Veria Baker et al :
Application No. 10/330,354 : DECISION DISMISSING PETITIONS
Filed: December 30, 2002 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. BS02-250 :

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed June 6, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

Any nonprovisional application that directly claims the benefit of a provisional application under 35 U.S.C. § 119(e) must be filed within twelve months from the filing date of the provisional application. An application that itself directly claims the benefit of a provisional application should identify, but not specify the relationship to, the provisional application. If the subject nonprovisional application is not filed within the twelve month period, however, it still may claim benefit of the provisional application via an intermediate nonprovisional application under 35 U.S.C. § 120. The intermediate nonprovisional application must have been filed within twelve months from the filing date of the provisional application and the intermediate nonprovisional application must have claimed the benefit of the provisional application. Further, it must be clearly indicated that the intermediate nonprovisional application is claiming the benefit under 35 U.S.C. § 119(e) of the provisional application. This identification of the intermediate nonprovisional application is necessary so that the Office can determine whether the intermediate nonprovisional application was filed within twelve months of the filing date of the provisional application, and thus, whether the benefit claim is proper.

The amendment to the specification states:

This application: is a continuation-in-part of Application No. 10/188,209, filed July 3, 2002, which is a continuation of Application No. 10/004,497, filed December 6, 2001, which is a continuation of Application No. 09/750,012 filed December 20, 2000, ***all of which*** **claimed the benefit of U.S. Provisional Application No. 60/192,862 filed March 29, 2000, and U.S. Provisional Application No. 60/173,919, filed December 30, 1999** * * * [emphasis supplied].

The wording of this claim for benefit of priority is improper since "all" of the aforementioned nonprovisional applications cannot directly claim benefit of priority to the above-noted provisional applications, since their filing date is more than 12 months from the filing date of the provisional applications. It is noted that "all of which" also occurs in two other places in the claim for benefit of priority, which also have the same problem. Therefore, petitioner must clearly state which nonprovisional application is directly claiming benefit to the prior-filed provisional application(s).

Additionally, petitioner is advised that, where an application claims a benefit under 35 U.S.C. 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. *See* Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v. Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). See also MPEP § 201.11. In addition, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate application. MPEP Section 201.06(d). Petitioner should review the claim submitted to ensure that a reference was properly made in the chain of applications.

Before the petition under 37 CFR §§ 1.78(a)(3) and 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 matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	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 Irvin Dingle at (571) 272-3210.

Frances Hicks
Petitions Examiner
Office of Petitions

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THOMAS KAYDEN HORSTEMEYER & RISLEY, LLP
BELLSOUTH I.P. CORP.
100 GALLERIA PARKWAY, SUITE 1750
ATLANTA, GA 30339

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JUL 25 2007

OFFICE OF PETITIONS

In re Application of	:	
La Veria Baker et al	:	
Application No. 10/330,354	:	DECISION DISMISSING PETITION
Filed: December 30, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. BS02-250	:	

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed November 14, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of priority to the prior-filed applications set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and (iii) and 1.78(a)(5)(i) and (iii) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application(s) as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application(s) claiming the benefit of the prior-filed provisional application(s) must have been filed within twelve months of the filing date of the prior-filed provisional application(s).

All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed applications under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

It is noted in reviewing the file record of Application No. 10/004,497 (which is one of the applications to which a claim for benefit of priority is being made) that the filing fee was never charged, although this fee was authorized. In accordance with 37 CFR 1.78(a)(1), the filing fee must have been paid in Application No. 10/004,497 in order to claim benefit of priority to any continuing application. The reply received on July 3, 2002 in response to the Notice to File Missing Parts of Nonprovisional Application (Notice) of January 4, 2002 indicated that a continuing application was also being filed. As this application is now being prosecuted by another law firm, an authorization was received on July 10, 2007 by the current law firm to charge the filing fee due at the time of filing the reply to the Notice of January 4, 2002. As noted above, in view of the authorization to charge the filing fee in Application No. 10/004,497, the filing fee of $740 due at the time is accepted *nunc pro tunc.*

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3629 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/330,354	12/30/2002	3629	870	BS02-250	20	3

CONFIRMATION NO. 2775

CORRECTED FILING RECEIPT

OC000000025013954

38823
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP/
BELLSOUTH I.P. CORP
100 GALLERIA PARKWAY
SUITE 1750
ATLANTA, GA 30339

Date Mailed: 07/25/2007

Receipt is acknowledged of this nonprovisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

La Veria Baker, Atlanta, GA;
Vernon Meadows, Lilburn, GA;
Wendy Eason, Decatur, GA;
William Hartselle, Norcross, GA;
Todd Mitchem, Decatur, GA;
Marcus Delgado, Atlanta, GA;
SCOTT FRANK, DUNWOODY, GA;

Power of Attorney: The patent practitioners associated with Customer Number **38823**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/188,209 07/03/2002
which is a CON of 10/004,497 12/06/2001 ABN
which is a CON of 09/750,012 12/29/2000 ABN
which claims benefit of 60/192,862 03/29/2000
and claims benefit of 60/173,919 12/30/1999
This application 10/330,354
is a CIP of 09/750,154 12/29/2000
which claims benefit of 60/173,919 12/30/1999
and claims benefit of 60/192,862 03/29/2000
This application 10/330,354
is a CIP of 09/946,457 09/06/2001
which is a CON of 09/750,000 12/29/2000 ABN
which claims benefit of 60/173,919 12/30/1999

and claims benefit of 60/192,862 03/29/2000
This application 10/330,354
is a CIP of 09/750,130 12/29/2000 PAT 7,127,405
which claims benefit of 60/173,919 12/30/1999
and claims benefit of 60/192,862 03/29/2000
This application 10/330,354
is a CIP of 09/750,001 12/29/2000
which claims benefit of 60/173,919 12/30/1999
and claims benefit of 60/192,862 03/29/2000
This application 10/330,354
is a CIP of 09/946,593 09/06/2001
which is a CON of 09/750,136 12/29/2000 ABN
which claims benefit of 60/173,919 12/30/1999
and claims benefit of 60/192,862 03/29/2000
This application 10/330,354
claims benefit of 60/372,978 04/16/2002

Foreign Applications

If Required, Foreign Filing License Granted: 02/14/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/330,354

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Systems and processes for technology asset management

Preliminary Class

705

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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SEP 10 2004

OFFICE OF PETITIONS

In re Application of :
Stefan Marinca :
Application No. 10/330,379 :
Filed: December 27, 2002 :
Attorney Docket No. T00461.70031 :

ON PETITION

This is a decision on the petition under 37 CFR 1.313, filed September 2, 2004 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

Petitioner requests that the application be withdrawn from issue "in order to allow the Examiner to enter and consider an Information Disclosure Statement. The issue fee was paid in this application on April 12, 2004.

37 CFR 1.313(c) provides that:

> Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:
>
> (1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
>
> (2) Consideration of a submission pursuant to 37 CFR 1.114; or
>
> (3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

See Changes to Application Examination and Provisional Application Practice, Interim Rule, 65 Fed. Reg. 14865, 14873 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47, 54 (Apr. 11, 2000).

37 CFR 1.313(c) clearly states that an application will not be withdrawn from issue on petition except for the reasons enumerated. The circumstances of the above-identified application do not fall within any of the exceptions.

Telephone inquires related to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to the Office of Patent Publication.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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INTELLECTUAL PROPERTY LAW OFFICE OF JOEL VOELZKE
24772 SADDLE PEAK ROAD
MALIBU CA 90265

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AUG 2 0 2007

OFFICE OF PETITIONS

In re Application of
Yang et al.
Application No.10/330,407
Filed: December 27, 2002
Title of Invention: Method and Apparatus for Pzt Actuation Device for Hard Disk Drives

ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed June 29, 2007.

This above-identified application became abandoned for failure to file a proper reply to the final Office Action of September 6, 2006. The final Office Action set a three (3) month shortened statutory period for reply. No extension of time pursuant to 37 CFR 1.136 was obtained. Accordingly, this application became abandoned on December 7, 2006. A Notice of Abandonment was mailed on March 21, 2007.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR §10.18(b). 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 and change of correspondence address has been entered and made of record.

The Request for Continued Examination (RCE), and the amendment will be forwarded to Technology Center 2600 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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SQUIRE, SANDERS & DEMPSEY LLP
1 MARITIME PLAZA
SUITE 300
SAN FRANCISCO, CA 94111

Mail Date: 06/10/2010

Applicant	: Syed F.A. Hossainy	: DECISION ON REQUEST FOR
Patent Number	: 7628859	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/330,412	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/27/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1260** 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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ALTON W. PAYNE
5508 GRAND LAKE
HOUSTON, TX 77081

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MAR 2 8 2007

OFFICE OF PETITIONS

In re Application of :

Frank Olstowski :

Application No. 10/330,414 : DECISION ON PETITION

Filed: December 27, 2002 :

Attorney Docket No. OLS-04

This is a decision on the petition under 37 CFR 1.137(b), filed December 18, 2006, to revive the above-identified application.

The petition is **GRANTED**.

A final Office action was mailed in the above-cited application on February 6, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. A request for an extension of time within the first month was obtained on May 9, 2006, but no response to the final Office action was filed. The application became abandoned on June 7, 2006. A Notice of Abandonment was mailed September 11, 2006.

The Request for Continued Examination, filed December 18, 2006, is noted and made of record.

The application is being forwarded to Technology Center 2800, GAU 2884 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
P.O. Box 1450
Alexandria, VA 22313-1450
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KIMBERLY-CLARK WORLDWIDE, INC.
TARA POHLKOTTE
401 NORTH LAKE STREET
NEENAH, WI 54956

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OFFICE OF PETITIONS

In re Application of :
Joseph Dipalma, et al. :
Application No. 10/330,417 : DECISION ON PETITION
Filed: December 27, 2002 :
Attorney Docket No. 16415 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 29, 2009, to revive the above-identified application.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 2, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination (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)(II)(A)(2). Since the amendment submitted does not prima facie place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

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 $1620; and (3) a proper statement of unintentional delay.

In view of the above, 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.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3761 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

April M. Wise
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, N.W.
WASHINGTON, DC 20006

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OFFICE OF PETITIONS

In re Application of :
Kyung Su Chae et al :
Application No. 10/330,434 :
Filed: December 30, 2002 :
Attorney Docket No. 8733.802.00-US

ON PETITION

This is a decision on the petition, filed September 26, 2005 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 12, 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 3652 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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Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
Xiao Yang et al. :
Application No. 10/330,457 : DECISION ON PETITION
Filed: December 27, 2002 : TO WITHDRAW
Attorney Docket No. 021612-000800US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed April 10, 2007.

The request is **APPROVED**.

A review of the file record indicates that George B.F. Yee of the firm Townsend and Townsend and Crew, LLP: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, all the attorneys associated with customer number 20350 have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the first named inventor. A courtesy copy of this decision will be mailed to the address noted on the request to withdraw. If this firm desires to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

Applicant is reminded that there is no attorney of record at this time.

A final rejection was mailed on December 7, 2006. Failure to timely respond 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: Xiao Yang
39255 Sundale Drive
Fremont, CA 94538

cc: Magnecomp Corporation
Attn: Lori C. Drimba
26201 Ynez Road
Suite 103
Temecula, CA 92591

UNITED STATES PATENT AND TRADEMARK OFFICE

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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
10/330,457	12/27/2002	Xiao Yang	021612-000800US

CONFIRMATION NO. 2866

OC000000024142885

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 05/30/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/10/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Kimberly Brabinet

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of :
Hyoung Woo Park :
Application No. 10/330,475 : DECISION ON PETITION
Filed: December 30, 2002 : TO WITHDRAW
Attorney Docket No. 1561-1012 : 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 24, 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 William F. Herbert on behalf of all attorneys of record who are associated with customer No. 21171.

All attorneys/agents associated with the Customer Number 21171 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).

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: HYOUNG WOO PARK
PO BOX 122
YUSNAD-KU DAEJON 305-600 KOREA
REPUBLIC OF KOREA

cc: JIWWU INTERNATIONAL PATENT LAW FIRM
6TH FLOOR, YEOSAN BUILDING
68-7 YEOKSAM-DONG
KANGNAM-KU
SEOUL 135-914 KOREA
REPUBLIC OF KOREA

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : ~~6/19/08~~ 7/8/08

Paper No.: —

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/330490 Patent No: 7169983 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: Correction of inadvertent error by Applicant.

EM

SPE 1638 **Art Unit**

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WILLIAM A. SKINNER
ADVANCED ELASTOMER SYSTEMS, L.P.
388 SOUTH MAIN STREET
AKRON OH 44311-1065

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JAN 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Sunny JACOB et al.	:	
Application No. 10/330,511	:	ON PETITION
Filed: December 27, 2002	:	
Attorney Docket No. 9584	:	

This is a decision on the petition under 37 CFR 1.181, filed October 24, 2005, requesting withdrawal of the Notice of Abandonment mailed October 11, 2005.

The petition is **GRANTED**.

Petitioner asserts the Notice of Abandonment mailed October 11, 2005 be withdrawn as a response to the non-final Office action of February 28, 2005 was mailed May 31, 2005 and received in the Office in a timely manner.

To support this assertion petitioner has submitted a copy of a return postcard receipt along with a copy of a certificate of mailing dated May 31, 2005.

The return postcard receipt indicates that the papers were received in the Office. The certificate of mailing indicates that the response was timely entrusted to the mails. MPEP 502 states: A minor error in the identification of the application can be corrected by the Office provided the correct identification can be quickly discovered. Therefore, as petitioner provided the correct docket number, inventorship, and title the paper could have been correctly matched to the application.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

Application No. 10/330,511

The application file is being referred to Technology Center AU 1711 for appropriate action on the concurrently filed amendment.

Brian Hearn
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/23/09

TO SPE OF : ART UNIT **1643 (1600)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/330,530** Patent No.: **7,,067,131**

Attn: David Blacnchard

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
South Tower - 9A22
Palm Location 7580

***Should sequence listing be entered as submitted?**

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

XApproved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

/Larry R. Helms/ Art Unit 1643

SPE **Art Unit**

#5

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Paper No. 4

BURNS DOANE SWECKER & MATHIS
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

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OFFICE OF PETITIONS

NOTICE

In re Application of
George Wallace et al
Application No. 10/330,533
Filed: December 30, 2002
Attorney Docket No. 032016-068

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