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DEC 16 2009

OFFICE OF PETITIONS

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

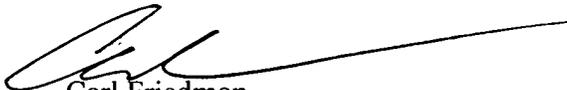
In re Patent No. 7,379,215 :
Issue Date: May 27, 2008 :
Application No. 10/330,545 : **ON PETITION**
Filed: December 30, 2002 :
Attorney Docket No. 16406- :
008001/ULTRAVOX :

This is a decision on the petition filed August 12, 2008, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-6842. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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


Carl Friedman
Petitions Examiner
Office of Petitions

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



Paper No. 5

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MAY 13 2003

OFFICE OF PETITIONS

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)
:FLESHNER & KIM, LLP
P.O. Box 221200
Chantilly VA 20153-1200In re Application of
Tan-Joong Park et al.
Application No. 10/330,548
Filed: December 30, 2002
Attorney Docket No. P-0474

This is in response to the petition, filed April 2, 2003 to accord status under 37 CFR 1.47 (a).

The petition is GRANTED.

The above-identified application was filed on December 30, 2002. The application names as inventors Tan-Joong Park and Hun-Geun Song. The declaration is signed by inventor Park only. The applicant files this petition alleging that joint inventor Song refuses to execute the oath/declaration and thus seeks status under 37 CFR 1.47(a).

By declaration of Bong-Kyoung Kim, Assistant Manager of LG Enterprises, Mr. Song verbally refused in a conversation with Mr. Kim, to accept the application papers and refused to execute the oath/declaration.

A grantable petition under 37 CFR § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR § 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

Thus, as provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the address given in the petition. 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 to be processed in due course.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



**SCOTT BOALICK
600 DULANY STREET
ALEXANDRIA, VA 22313**

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AUG 27 2007

OFFICE OF PETITIONS

In re Application of
Brian Heikes et al.
Application No. 10/330,552
Filed: December 30, 2002
Attorney Docket No. 06975-31300 / Communicati

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 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 Boalick. Scott Boalick has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is an outstanding Office action mailed June 20, 2007 that requires a reply from the attorneys of record.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022**



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JUN 19 2008

OFFICE OF PETITIONS

In re Application of
Larry L. Lu, et al.
Application No. 10/330,561
Filed: December 30, 2002
Attorney Docket No. 06975-327001 /
COMMUNICAT

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 November 14, 2007.

The request is **APPROVED**.

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

The request was signed by Babak Akhlaghi on behalf of himself.

Babak Akhlaghi has been withdrawn as attorneys or agents of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There are no pending Office actions at the present time.

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

April M. Wise
April M. Wise
Petitions Examiner
Office of Petitions



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

Mail Date: 04/20/2010

Applicant	: Larry L. Lu	: DECISION ON REQUEST FOR
Patent Number	: 7640336	: RECALCULATION OF PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/330,561	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/30/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **931** 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 05 2007

OFFICE OF PETITIONS

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA GA 30309

In re Application of	:	
Yoshiki Matsuoka et al.	:	
Application No. 10/330,572	:	DECISION ON PETITION
Filed: December 27, 2002	:	UNDER 37 C.F.R. §1.181
Attorney Docket No.	:	
44471/281752	:	
Title: LSI DESIGN VERIFICATION	:	
APPARATUS, LSI DESIGN	:	
VERIFICATION METHOD, AND LSI	:	
DESIGN VERIFICATION PROGRAM	:	

This is a decision on the petition filed on November 28, 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 May 18, 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 August 19, 2006. A notice of abandonment was mailed on November 27, 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 statement¹.

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 May 18, 2006, and will set a new period for response.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225². All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



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

¹ See MPEP 711.03(c).

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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UNITED STATES DEPARTMENT OF COMMERCE
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Rutan & Tucker, LLP.
611 ANTON BLVD
SUITE 1400
COSTA MESA, CA 92626

Mail Date: 04/21/2010

Applicant	: Kamil Synek	: DECISION ON REQUEST FOR
Patent Number	: 7603441	: RECALCULATION OF PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/330,591	: 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 **1012** 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.



Paper No. 5

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JUL 25 2003

OFFICE OF PETITIONS

Ansel M. Schwartz
Suite 304
201 N. Craig Street
Pittsburgh PA 15213

In re Application of
Koebler, Athanassiou, Qian & Lisovich
Application No. 10/330,599
Filed: December 27, 2002
Attorney Docket No. HOUCK-10
For: METHOD AND APPARATUS FOR
FOLLOWING CELLS

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

This is in response to the petition under 37 CFR 1.47(a), filed July 7, 2003 (certificate of mailing date July 3, 2003).

The petition is granted.

Petitioners have shown that non-signing inventor Aleksandr Lisovich, through his attorney, Mark R. Leslie, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Attorney Ansel Schwartz establishes that Attorney Leslie was mailed the application papers, including the specification, claims and drawings, but Attorney Leslie returned the application and stated that his client would not review the application, let alone sign a declaration, unless his client received additional compensation. Petitioners have submitted documentary evidence in the form of letters between Attorney Leslie and Attorney Schwartz to support their allegation of Mr. Lisovich's refusal to join in the filing of the above-identified application. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-25-08

TO SPE OF : ART UNIT 2191

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/3301232 Patent No.: 7278137

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

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

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

Ernie Yuen
Certificates of Correction Branch
703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments: _____

W. Y. ZHEN
W. Y. ZHEN
SPE

2191
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 27, 2007

TO SPE OF : ART UNIT 3739

SUBJECT : Request for Certificate of Correction on Patent No.: 7156867 B2 - 10/330638

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

Please complete this form and return with file, within 7 days to:

Palm location **7580, Certificates of Correction Branch - South Tower - 9A22**

If response is for an IFW, return to employee (named below) via PUBSCofC Team in **MADRAS.**

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

Elisha Evans

Certificates of Correction Branch

Tel. No. 703-308-9390 EXT 110

Thank You For Your Assistance

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments:

The line numbers of col. 20 do not line up with the actual no. of the line, thus the examiner has changed the line nos. on page 2 of the Cert. of Correction to clarify this.

[Signature] Roy Gibson

SPE

3739

Art Unit



10/330638

cofc

Docket No.: 104891-14
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of:

Charles D. Lennox

Patent No.: 7,156,867 B2

Issued: January 2, 2007

For: UNIFORM SELECTIVE CEREBRAL
HYPOTHERMIA

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Attention: Certificate of Correction Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: January 23, 2007

Signature

Thomas J. Engellenener
(Thomas J. Engellenener)

REQUEST FOR CERTIFICATE OF CORRECTION
PURSUANT TO 37 CFR 1.322

Attention: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Certificate
JAN 26 2007
of Correction

Dear Sir:

Upon reviewing the above-identified patent, Patentee noted errors which should be corrected, specifically that the Patent Office failed to incorporate the amendments to the claims as outlined in the amendment filed on June 5, 2006, on which amendment the Notice of Allowability was based. Patentee requests that the following changes be made:

In the Claims:

At column 18, line 46, in claim 23 (previously prosecuted as claim 37), change the dependent claim from "claim 1" to claim 22.

JAN 29 2007

JAN 29 2007

- ✓ At column 18, line 48, in claim 24 (previously prosecuted as claim 38), change the dependent claim from "claim 1" to claim 22.
- ✓ At column 19, line ^{20, K.} 8, in claim 31 (previously prosecuted as claim 45), after "head" add, the head-cooling cap in thermal communication with a control console.
- ✓ At column 19, line ^{20, K.} 8, in claim 31 (previously prosecuted as claim 45), after "brain" add, the sensor in electrical communication with the control console; and.
- ✓ At column 19, lines 9-11, in claim 31 (previously prosecuted as claim 45), delete "cooling cap in thermal communication with the console and the sensor of the brain probe in electrical communication with the console; and".
- At column 20, line ¹² 14, in claim 37 (previously prosecuted as claim 51), change "configured to" to capable of.
- At column 20, line ¹² 14, in claim 37 (previously prosecuted as claim 51), change "direct" to directing.
- At column 20, line ¹³ 15, in claim 37 (previously prosecuted as claim 51), change "at least one" to fewer than all.
- At column 20, line ¹⁵ 17, in claim 37 (previously prosecuted as claim 51), change "at least one" to fewer than all.
- At column 20, line ¹⁷ 19, in claim 38 (previously prosecuted as claim 52), change "body cooling" to head-cooling.
- At column 20, line ²⁰ 22, in claim 39 (previously prosecuted as claim 53), change "body cooling" to head-cooling.

Transmitted herewith is a proposed Certificate of Correction effecting such amendment, and as none of the errors were made by the Applicant, no fee is believed to be due. However, if a fee is due, the Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 141449, under Order No. 104891-14.

JAN 29 2007

Patent No.: 7,156,867

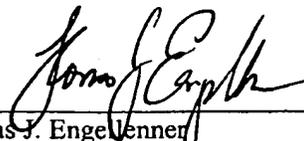
Docket No.: 104891-14

Patentee respectfully requests the granting of the requested Certificate of Correction.

Dated: January 23, 2007

Respectfully submitted,

By



Thomas J. Engellenner

Registration No.: 28,711

NUTTER MCCLENNEN & FISH LLP

World Trade Center West

155 Seaport Boulevard

Boston, Massachusetts 02210-2604

(617) 439-2000

(617) 310-9000 (Fax)

Attorney for Applicant

1596960.1

JAN 29 2007

**UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION**

Page 1 of 1

PATENT NO. : 7,156,867 B2
 APPLICATION NO. : 10/330,638
 ISSUE DATE : January 2, 2007
 INVENTOR(S) : Charles D. Lennox

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

In the Claims:

At column 18, line 46, in claim 23 (previously prosecuted as claim 37), change the dependent claim from "claim 1" to claim 22.

At column 18, line 48, in claim 24 (previously prosecuted as claim 38), change the dependent claim from "claim 1" to claim 22.

At column 19, line 5, in claim 31 (previously prosecuted as claim 45), after "head" add , the head-cooling cap in thermal communication with a control console.

At column 19, line 8, in claim 31 (previously prosecuted as claim 45), after "brain" add , the sensor in electrical communication with the control console; and.

At column 19, lines 9-11, in claim 31 (previously prosecuted as claim 45), delete "cooling cap in thermal communication with the console and the sensor of the brain probe in electrical communication with the console; and".

At column 20, line 14, in claim 37 (previously prosecuted as claim 51), change "configured to" to capable of.

At column 20, line 14, in claim 37 (previously prosecuted as claim 51), change "direct" to directing.

At column 20, line 15, in claim 37 (previously prosecuted as claim 51), change "at least one" to fewer than all.

At column 20, line 17, in claim 37 (previously prosecuted as claim 51), change "at least one" to fewer than all.

At column 20, line 19, in claim 38 (previously prosecuted as claim 52), change "body cooling" to head-cooling.

At column 20, line 22, in claim 39 (previously prosecuted as claim 53), change "body cooling" to head-cooling.

MAILING ADDRESS OF SENDER:

Thomas J. Engellenner
 NUTTER MCCLENNEN & FISH LLP
 World Trade Center West
 155 Seaport Boulevard
 Boston, Massachusetts 02210-2604

1

JAN 29 2007

15

inlet manifold 130 from control console 51 (FIGS. 6 & 7). Outlet manifold 132 connects to the outlet end of left fluid channel 140, and outlet end of right fluid channel 141 to provide a common cooling fluid return port. Outlet tube 16 returns cooling fluid 11 to the control console 51 from outlet manifold 132. Chinstrap 136 retains head-cooling cap 8 to the patient's head. Cooling module brackets 135 provides a secure means to mount cooling module 7 to the head-cooling cap 8, and to restrain cooling module umbilical 10 (FIGS. 1, 2, & 5). Ventricle-cooling catheter opening 14 provides surgical access to the part of the head where ventriculostomy is performed to place one or two ventricle-cooling catheter(s) (2 or 20) into lateral ventricle(s).

FIG. 14 depicts in planar form the path of left cooling fluid channel 140, and the path of right fluid cooling channel 141 through head-cooling cap 8. Also shown is flow control valve 131, inlet manifold 130, return manifold 132, cooling module retaining bracket 135, and ventricle-cooling catheter opening 14.

FIG. 15 depicts the construction of cooling fluid channels 140 & 141, the operation of fluid control valve 131 and inlet manifold 130, and mounting of inlet manifold 130 to outer liner 128. Fluid channel 140 and 141 are formed from outer liner 128, and inner liner 129 as shown using either adhesive 143, or thermal bonding. Inlet manifold 130 is attached to outer liner 128 with a compression grommet 142 as shown. Fluid control valve rotates within inlet manifold to: direct cooling fluid 11 flow to both fluid channels 140 and 141 (position shown), to direct cooling fluid 11 to cooling fluid channel 140 only (fluid control valve 131 rotated 90 degrees clockwise from position shown), to direct cooling fluid 11 to cooling fluid channel 141 (fluid control valve 131 rotated 90 degrees counterclockwise from position shown), or to prevent cooling fluid 11 from entering either cooling fluid channel 140 or 141 (fluid control valve 131 rotated 180 degrees from position shown).

Alternate Embodiments

Cooling of the brain may be accomplished by withdrawing cerebrospinal fluid from one or more ventricles, cooling the cerebrospinal fluid ex vivo and reintroducing the cooled cerebrospinal fluid back in the ventricle in a continuous or cyclical cycle. A compressor based refrigeration system may be used to cool the cooling fluid. A separate portable battery operated cooling unit may be provided for use with the head-cooling cap so that the head-cooling cap may be applied by emergency medical personnel in the field, and ventricle-cooling catheter(s) may be applied when the patient reaches the emergency room. A thermally conductive gel or other medium may be applied to the patient's hair to provide efficient cooling of the scalp by the head-cooling cap thereby eliminating the need to shave the patient's head. The CSF pump mechanism may be a mechanically driven rotary pump. Heat may be removed from the cooling block in the cooling module by a cooling mechanism other than thermoelectric heat pumps.

ADVANTAGES

From the description above there are a number of advantages my method and apparatus for inducing selective cerebral hypothermia for the prevention of secondary brain injury provide:

(a) The therapeutic agent (hypothermia) for preventing secondary injury according to this invention is applied directly to the brain.

16

(b) The therapeutic agent (hypothermia) for preventing secondary injury according to this invention is limited to the brain.

(c) Lower hypothermic temperatures can be practically achieved in the brain than can be achieved by the methods currently described in the art since only the brain is exposed to hypothermia.

(d) Hypothermic temperatures can be maintained longer in the brain than with methods described in the art.

(e) Cerebral hypothermia therapy may be applied faster than with methods described in the art since only the brain is cooled.

(f) Cerebral hypothermia therapy may be applied faster than with methods described in the art since head-surface cooling may be initiated in the field, and ventricle cooling may be initiated as soon as the patient reaches the emergency room.

(g) Selective cerebral hypothermia may be achieved without clinically significant temperature gradients within the brain.

(h) The degree of hypothermia in the brain can be adjusted according to the physiological response to hypothermia.

(i) Core body temperature may be precisely maintained at normal during cerebral hypothermia.

(j) The thalamus, hypothalamus and medulla are not cooled to a level that suppresses the autonomic nervous system.

I claim:

1. A method of inducing and maintaining selective cerebral hypothermia in a patient, comprising the steps of:

(a) placing the distal end of at least one ventricle-cooling catheter into a lateral ventricle of the brain of said patient;

(b) placing a head-cooling cap on the head of said patient; and

(c) activating said ventricle-cooling catheter and said head-cooling cap whereby said brain is cooled by said ventricle-cooling catheter and by said head-cooling cap to a temperature lower than a body temperature of the patient.

2. The method of claim 1 further comprising: attaching a body-heating device to the body of said patient; and warming said body with said body-heating device while cooling the brain of the patient.

3. The method of claim 1 wherein said ventricle-cooling catheter comprises a temperature sensor.

4. The method of claim 1 wherein said ventricle-cooling catheter comprises a pressure sensor.

5. The method of claim 2 wherein said ventricle-cooling catheter comprises a means to remove fluid from, and insert fluid into, said lateral ventricle.

6. The method of claim 1 wherein said head-cooling cap comprises a means for selecting at least a portion of the scalp of said head for cooling by said head-cooling cap.

7. The method of claim 2 wherein said body-heating device is chosen from the group consisting essentially of a body-heating blanket, a body-heating garment, a body-heating catheter, or a body-heating source of light.

8. A brain cooling assembly comprising:

a cooling catheter assembly having:

a catheter defining a lumen, the catheter having a distal end and a proximal end, the distal end configured to insert within a brain ventricle of a body, and

a cooling assembly coupled with the proximal end of the catheter, the cooling assembly having:

a pump in fluid communication with the lumen defined by the catheter, the pump configured to

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- remove fluid from the ventricle of the brain and return the fluid to the ventricle of the brain via the lumen defined by the catheter, and
 - a heat transfer assembly in thermal communication with the pump and in fluid communication with the catheter, the heat transfer assembly configured to reduce a temperature of the fluid removed from the ventricle of the brain by the pump; and
 - a body cooling device configured to cover an external surface of a head of the brain and configured to cool a portion of the brain oriented in proximity to the body cooling device.
9. The brain cooling assembly of claim 8 wherein the body cooling device comprises a cooling cap defining a first fluid channel and a second fluid channel, the first fluid channel configured to cool a first portion of the brain oriented in proximity to the first fluid channel and the second cooling channel configured to cool a second portion of the brain oriented in proximity to the second fluid channel.
10. The brain cooling assembly of claim 8 wherein the catheter comprises a temperature sensor configured to orient in thermal communication with the fluid of the ventricle.
11. The brain cooling assembly of claim 8 wherein the catheter comprises a pressure sensor oriented on the distal end of the catheter.
12. The brain cooling assembly of claim 8 further comprising a drainage assembly in fluid communication with the lumen defined by the catheter.
13. The brain cooling assembly of claim 8 wherein the lumen defined by the catheter comprises an aspiration channel defining an aspiration port and an infusion channel defining an infusion port, the aspiration port configured to orient within an anterior horn of the brain ventricle and the infusion port configured to orient within an inferior horn of the ventricle.
14. The brain cooling assembly of claim 8 wherein the brain cooling system further comprises a body heating device configured to increase the temperature of the body.
15. The brain cooling assembly of claim 8 wherein the body heating device comprises a warming catheter configured to insert within a vena cava of the body.
16. The brain cooling assembly of claim 8 wherein the heat transfer assembly defines a circuitous fluid path.
17. A brain cooling system comprising:
- a cooling catheter assembly having:
 - a catheter defining a lumen, the catheter having a distal end and a proximal end, the distal end configured to insert within a brain ventricle of a body, and
 - a cooling assembly coupled with the proximal end of the catheter, the cooling assembly having:
 - a pump in fluid communication with the lumen defined by the catheter, the pump configured to remove fluid from the ventricle of the brain and return the fluid to the ventricle of the brain via the lumen defined by the catheter, and
 - a heat transfer assembly in thermal communication with the pump and in fluid communication with the catheter, the heat transfer assembly configured to reduce a temperature of the fluid removed from the ventricle of the brain by the pump;
 - a body cooling device configured to cover an external surface of a head of the brain and configured to cool a portion of the brain oriented in proximity to the body cooling device; and
 - a control console in thermal communication with the cooling catheter assembly and the body cooling device, the control console configured:

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- (i) to provide cooling fluid to the heat transfer assembly, and
 - (ii) to provide cooling fluid to the body cooling device.
18. The brain cooling system of claim 17 further comprising a body heating device in thermal communication with the control console, the body heating device configured to increase the temperature of the body.
19. A method for adjusting a degree of cerebral hypothermia of a brain comprising:
- covering an external surface of a head with a head-cooling device configured to remove heat from the external surface of the head;
 - providing selective cerebral hypothermia to the brain by cooling a portion of the brain oriented in proximity to the head-cooling device;
 - measuring an intra-cranial pressure of the head associated with the brain;
 - detecting a change in the intra-cranial pressure; and
 - altering the degree of cerebral hypothermia of the brain in response to detecting the change in intra-cranial pressure.
20. The method of claim 19 wherein measuring the intra-cranial pressure of the head associated with the brain comprises measuring a pressure within a lateral ventricle of the brain.
21. The method of claim 19 wherein:
- detecting a change in the intra-cranial pressure comprises detecting an increase in the intra-cranial pressure; and
 - altering the degree of cerebral hypothermia of the brain comprises increasing a level of cerebral hypothermia in response to detecting the increase in intra-cranial pressure.
22. A system for inducing cerebral hypothermia comprising:
- a head cooling cap configured to cool a region of a surface of a head to a level that induces cerebral hypothermia;
 - a brain probe having a sensor configured to detect at least one physiological parameter of a brain; and
 - a control console in thermal communication with the head-cooling cap and in electrical communication with the sensor of the brain probe, the control console configured to adjust cooling by the head-cooling cap in response to a signal received from the sensor of the brain probe.
23. The system of claim 22 wherein the brain probe is configured to insert within the brain.
24. The system of claim 22 wherein the head-cooling cap defines an opening configured to allow insertion of the probe into the brain of the patient at a location relative to landmarks of the head while the head cooling cap is mounted on the head.
25. The system of claim 22 further comprising a warming device in thermal communication with the console.
26. The system of claim 22 wherein the control console is configured to adjust cooling by the head-cooling cap in response to a pressure signal received from the sensor of the brain probe, the pressure signal indicative of brain pressure.
27. The system of claim 22 wherein the control console is configured to adjust cooling by the head-cooling cap in response to a temperature signal received from the sensor of the brain probe, the temperature signal indicative of brain temperature.
28. The system of claim 22 wherein the control console is configured to circulate fluid through the head-cooling cap.
29. The system of claim 28 wherein the control console comprises a cooling assembly configured to cool the fluid.

30. The system in claim 23 wherein said probe comprises a ventricle cooling catheter.

31. A method for controlling cerebral hypothermia comprising:

placing a head-cooling cap on a patient's head; placing a brain probe into the patient's brain, the brain probe having a sensor configured to detect at least one physiological parameter of a brain; ~~cooling cap in thermal communication with the console and the sensor of the brain probe in electrical communication with the console; and~~ activating the control console to (i) receive a signal from the sensor of the brain probe and (ii) adjust cooling by the head-cooling cap in response to the signal received from the sensor of the brain probe.

32. The method of claim 31 wherein the step of placing a brain probe into the patient's brain comprises placing a ventricle cooling catheter into the patient's brain.

33. The method of claim 31 wherein the step of activating the control console further comprises the steps of: cooling a fluid; and circulating the fluid through the head-cooling cap.

34. The method of claim 31 wherein when receiving a signal from the sensor of the brain probe, the control console receives a brain pressure signal from the sensor of the brain probe.

35. The method of claim 31 wherein when receiving a signal from the sensor of the brain probe, the control console receives a brain temperature signal from the sensor of the brain probe.

36. The method of claim 31 wherein: receiving a signal from the sensor of the brain probe further comprises detecting an increase in the intracranial pressure based upon the signal; and

adjusting cooling by the head-cooling cap in response to the signal received from the sensor of the brain probe comprises increasing a level of cerebral hypothermia in response to detecting the increase in intra-cranial pressure based upon the signal.

37. A head-cooling device comprising:

a cap defining a plurality of cooling zones; a fluid inlet coupled to the cap and in fluid communication with the cooling zones the fluid inlet configured to couple to a cooling fluid source; and

a valve in fluid communication with the fluid inlet the valve configured to direct flow of cooling fluid from the cooling fluid source to at least one of the plurality of cooling zones to cool a portion of a head oriented in proximity to the at least one of the plurality of cooling zones.

38. The ~~body~~ cooling device of claim 37 wherein the plurality of cooling zones comprises a first hemispherical cooling zone and a second hemispherical cooling zone.

39. The ~~body~~ cooling device of claim 38 wherein the cap further defines a first fluid channel associated with the first hemispherical cooling zone and a second fluid channel associated with the second hemispherical cooling zone, the first fluid channel configured to cool a first portion of a head oriented in proximity to the first fluid channel and the second cooling channel configured to cool a second portion of the brain oriented in proximity to the second fluid channel.

* * * * *

line no's are wrong?

capable of directing fever than all



Paper No. 7

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

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JUL 02 2004

OFFICE OF PETITIONS

In re Application of
Ryals
Application No. 10/330,640
Filed: December 27, 2002
Attorney Docket No. 082771.P114CS

:
: 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 January 20, 2004, to accept the unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional application set forth in the concurrently filed 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, 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)

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. Here, while the statement proffered under 35 USC 120 is acceptable it only resides in the petition. That is, petitioner must also prepare either an amendment to the specification complying with 37 CFR 1.121, or an ADS, that contains the section 120 statement. The statement made in the petition may not also be employed as the amendment. See 37 CFR 1.4(b),(c).

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and an amendment complying with 37 CFR 1.121 is required.

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

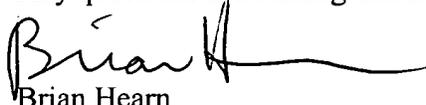
By mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Window located at:

 2011 South Clark Place
 Crystal Plaza Two Lobby
 Room 1B03
 Arlington, VA 22202

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

Any questions concerning this matter may be directed to the undersigned at (703) 305-1820 .



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



Paper No. 10

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

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AUG 04 2004

OFFICE OF PETITIONS

In re Application of
Ryals
Application No. 10/330,640
Filed: December 27, 2002
Attorney Docket No. 082771.P114CS

:
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:

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed by facsimile transmission on July 28, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

The instant pending application was filed on December 27, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional applications was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. See 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition. The USPTO regrets the necessity for a renewed petition in that it misplaced the amendment which the postcard receipt shows was previously received on January 20, 2004.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-1820..

This application is being forwarded to Technology Center Art Unit 2141 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 applications.



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

ATTACHMENT: Corrected Filing Receipt

2

cc: Ms. Kenta Suzue
Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304



VINSON & ELKINS, L.L.P.
1001 FANNIN STREET
2300 FIRST CITY TOWER
HOUSTON TX 77002-6760

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MAR 19 2004

OFFICE OF PETITIONS

In re Application of :
Scott Clare :
Application No. 10/330,686 : ON PETITION
Filed: 27 December, 2002 :
Atty Docket No. INN643/4-5CON2US :

This is a decision on the petition under 37 CFR 1.137(b),¹ filed on 12 February, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 11 December, 2003, for failure to file a proper reply to the non-final Office action mailed on 10 June, 2003, which set a three (3) month shortened statutory period for reply. Petitioners filed a Notice of Appeal and a three (3) month extension of time in accordance with 37 CFR

¹Effective 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 require 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) on 10 December, 2003. However, a Notice of Appeal is not a proper reply to a first action on the merits.² The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioner has now filed an amendment as well as payment for an additional extension of time.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.³ The three-month extension request filed on 12 February, 2004, was submitted more than six (6) months after the mailing date of the Office action mailed on 10 June, 2003, and therefore is unnecessary. The extension of time fee paid on 12 February, 2004, will be credited to counsel's deposit account, No. 22-0365 as authorized.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

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

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

²An applicant for patent, any of whose claims have been twice or finally rejected may appeal from the decision of the examiner to the Board of Patent Appeals and Interferences by filing a notice of appeal and the fee set forth in § 1.17(b). See 37 CFR 1.191(a).

³See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).



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

**KWANGJUN KIM
5195 SKY RIDGE DR.
GLENDALE CA 91214**

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JAN 15 2009

OFFICE OF PETITIONS

In re Patent No. 6,768,634	:	
Issue Date: July 27, 2004	:	
Application No. 10/330,690	:	DECISION ON PETITION
Filed: December 27, 2002	:	
Attorney Docket No. 2100653-991410	:	

This is a decision on the petition under 37 CFR 1.378(c), filed August 5, 2008 to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on July 28, 2008 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

Mark A. Hollingsworth
HOLLINGSWORTH & FUNK, LLC
Suite 125
8009 34th Avenue South
Minneapolis MN 55425

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OFFICE OF PETITIONS

In re Application of :
John D. Hatlesad et al. :
Application No. 10/330,693 : DECISION ON PETITION
Filed: December 27, 2002 : UNDER 37 C.F.R. §1.181
Attorney Docket No.: GDT.237.A1 :
Title: MEASUREMENT OF :
RESPIRATORY SINUS ARRHYTHMIA :
USING RESPIRATORY AND :
ELECTROGRAM SENSORS IN AN :
IMPLANTABLE DEVICE :

This is a decision on the petition filed on July 13, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed September 1, 2005, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on December 2, 2005. A notice of abandonment was mailed on June 12, 2006.

ANALYSIS

With the present petition, Petitioner has asserted that a response to this communication, along with a one-month extension of time, was submitted on January 3, 2006¹.

Petitioner has submitted a copy of this submission and the petition for a one-month extension of time.

Petitioner has also indicated why each of these items was not associated with the present file: Petitioner placed the wrong serial number on each of these submissions. As such, each of these items was associated with application number 10/339,693, as requested by Petitioner.

Petitioner is reminded that errors such as occurred can result in loss of rights and care must be taken to avoid such.

CONCLUSION

It is clear that the submission was timely received on January 5, 2006, and placed into the paper file associated with application number 10/339,693. Accordingly, the petition under 37 C.F.R. §1.181(a) is GRANTED. The holding of abandonment is WITHDRAWN.

The petition for an extension of time and the response to the non-final Office action will be moved from the paper file associated with 10/339,693 and placed into the electronic file and records associated with the present application in due course.

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 response which was received on January 5, 2006 can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225². All other inquiries

¹ It is noted that January 2, 2006 was a federal holiday.

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

concerning examination procedures or status of the application should be directed to the Technology Center.

A handwritten signature in cursive script, appearing to read "Paul Shanowski".

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



GEORGE ENNENGA
361 CANAL ST.
NEW YORK, NY 10013

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SEP 10 2007

OFFICE OF PETITIONS

In re Application of Ennenga :
Application No. 10/330,708 :
Filing Date: March 10, 2003 :
Title: Hospitality Trade Process :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(a), filed May 3, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 6, 2006, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned as of midnight on Monday, January 8, 2007. A Notice of Abandonment was mailed on April 19, 2007.

The instant petition was filed May 3, 2007, and seeks revival of the application.

The required fee for a petition under 37 CFR 1.137(a) is \$250 for a small entity. The Office will not consider the merits of a petition without payment of the required petition fee. Therefore, the petition must be dismissed.

Petitioner's current options:

- (1) Take no action and let the application remain abandoned.
- (2) File a request for reconsideration 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)." The petition must be accompanied by:
 - (A) The non-refundable petition fee of \$250,
 - (B) A reply to the outstanding non-final Office action, AND

- (C) 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.
- (3) File a petition under 37 CFR 1.137(b) within TWO (2) MONTHS from the mail date of this decision. The petition must be only be accompanied by:
 - (A) The petition fee of \$750, and
 - (B) A reply to the outstanding non-final Office action.

A copy of a blank petition under 37 CFR 1.137(b) form is enclosed for petitioner's convenience. Petitioner can obtain a PDF "fillable" version of the form at:
http://www.uspto.gov/web/forms/sb0064_fill.pdf.

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

Attached: Copy of Form PTO/SB/64 (Petition under 37 CFR 1.137(b))
Privacy Act Statement

**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.

[Page 1 of 2]

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.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

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

A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature

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 at (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

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ALEXANDRIA, VA 22313-1450
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DANIEL K. NICHOLS
MOTOROLA, INC.
IP SECTION, LAW DEPT.
1303 E. ALONQUIN ROAD
SCHAUMBERG, IL 60196

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FEB 16 2005

In re Application of: : **OFFICE OF PETITIONS**
Raad et al. :
Application No. 10/330,721 : DECISION ON
Filed: October 27, 2002 : PETITION
Attorney Docket Number: CR1106AC :

This is a decision on the petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b), filed January 27, 2005, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the nonfinal Office action, mailed May 5, 2004. The Notice set a shortened statutory period for reply of three (3) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned January 23, 2004. A Notice of Abandonment was mailed January 25, 2005.

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

The petition fee, \$1500.00, has been charged to deposit account 50-2117 as authorized in the instant petition.

This application is being returned to Technology Center 2662 for processing of the Amendment, filed January 27, 2005, in due course.

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


Derek L. Woods
Attorney/Advisor
Office of Petitions



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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.
10/330,730	12/27/2002	James Meek	D-1119 R3	4210
28995	7590	05/19/2008	EXAMINER	
RALPH E. JOCKE walker & jocke LPA 231 SOUTH BROADWAY MEDINA, OH 44256			CUFF, MICHAEL A	
			ART UNIT	PAPER NUMBER
			3627	
			MAIL DATE	DELIVERY MODE
			05/19/2008	PAPER

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FROM DIRECTORS OFFICE

MAY 16 2008

Ralph E. Jocke
WALKER & JOCKE LPA
231 South Broadway
Medina, Ohio 44256

TECHNOLOGY CENTER 3600

In re Application of: JAMES MEEK et al. : **ON PETITION TO WITHDRAW**
Appl. No. 10/330,730 : **OFFICE ACTIONS AND**
Filed: December 27, 2002 : **PREMATURE FINAL**
For: **ATM CUSTOMER MARKETING** : **REJECTION UNDER 37 C.F.R. 1.181**
SYSTEM

This is a decision on Applicants' Petition under 37 CFR 1.181 received on June 11, 2007 requesting withdrawal of the Office actions dated December 29, 2006 and April 12, 2007 and further to withdraw the premature final rejection of the action dated April 12, 2007.

The Petition is **DISMISSED** as MOOT.

A review of the file record reveals that on August 15, 2006 the Examiner was reversed in a decision by the Board of Patent Appeals and Interferences on a rejection of claims 1 and 72 under 35 U.S.C. 102 as being anticipated by Murphy, a rejection of claims 48-71 under 35 U.S.C. 103 as being unpatentable over Murphy in view of Patterson, and a rejection of claims 73-82 under 35 U.S.C 103 as being unpatentable over Murphy in view of Kepecs.

The Examiner reopened prosecution on December 29, 2006 with a non-final rejection of claims 1, 48, 50-64, and 66-82 under 35 U.S.C. 102 as being anticipated by Walker et al. and of claims 49 and 65 under 36 U.S.C. 103 as being unpatentable over Walker et al. in view of Jheeta. A final rejection of the same claims based on the same art was mailed on April 12, 2007. A second appeal brief was received on November 7, 2007. An allowance of claims 1 and 48-82 was issued on February 11, 2008.

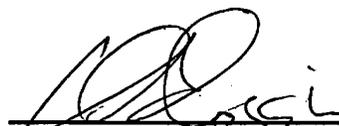
Petitioners argue that the reopening of prosecution on December 29, 2006 after the decision by the Board was not legally valid because it was not authorized by the Director of the Technology Center. Further, Petitioners argue that the finality of the Office action mailed April 12, 2007 is premature because of the illegality of the previous office action.

A further review of the file history indicates that the Office action mailed December 29, 2006 reopening prosecution after the Board decision was not authorized by the Director as required by 37 C.F.R. 1.198. Therefore, the Office action mailed December 29, 2006 was improper and further the finality of the subsequent Office action was premature.

However, in view of the Examiner's allowance of claims 1 and 48-82 on February 11, 2008, the petition is moot and thereby dismissed.

SUMMARY: The Petition is **DISMISSED** as MOOT.

Any questions regarding this decision should be directed to Supervisory Patent Examiner F. Ryan Zeender at 571-272-6790.



Wynn Coggins, Director
Technology Center 3600
(571) 272-5350

FZ 4/14/2008

12

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JUN 11 2007



Ralph E. Jocke

Patent

&

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FACSIMILE TRANSMISSION COVER SHEET

TRANSMITTING: 6 PAGES (INCLUDING THIS PAGE)

NAME: Director of Technology Center 3600
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

FAX NUMBER: (571) 273-8300

SENDER: Ralph E. Jocke, Esq.

FAX NUMBER: (330) 722-6446

PHONE NUMBER: (330) 721-0000

COMMENTS: Petitions for entry in Application 10/330,730 (Docket No. D-1119 R3).
Please refer to the following.

If you do not receive all pages, contact the sender IMMEDIATELY at the number listed below.

The information contained in this facsimile message is confidential and intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited and will be considered a tortious interference in our confidential business relationships. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the address below via the U.S. Postal Service. Thank you.

CERTIFICATION UNDER 37 C.F.R. SECTIONS 1.8(b) AND 1.6(d)

FACSIMILE TRANSMISSION

I hereby certify that, on the date shown below, this correspondence is being transmitted by facsimile to the Patent and Trademark Office at (571) 273-8300.

Date: 6/11/2007

Ralph E. Jocke

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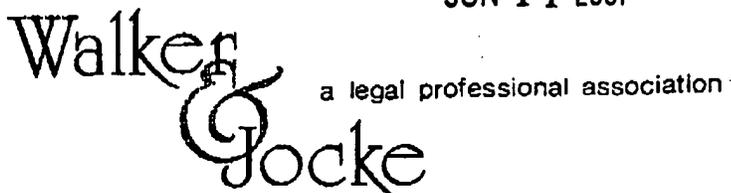
330 • 225 • 669
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330 • 722 • 6446
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rej@walkerandjocke.com
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231 South Broadway. Medina. Ohio U.S.A. 44256-2601

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Ralph E. Jocke
Patent
&
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June 9, 2007

Director of Technology Center 3600
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Attn: Art Unit 3627
Patent Examiner Michael Cuff

Re: Application No.: 10/330,730
Confirmation No.: 4210
Applicants: James Meek, et al.
Title: ATM Customer Marketing System
Docket No.: D-1119 R3

Sir:

With regard to the Office Action dated April 12, 2007, please find enclosed Petitions pursuant to 37 C.F.R. § 1.181, including both a "Petition to Withdraw an Office Action" and a "Petition to Withdraw Premature Final Rejection".

No fee is deemed required. However, the Commissioner is authorized to charge any necessary fee associated with the filing of these Petitions, and any other fee due, to Deposit Account 09-0428.

Very truly yours,

Ralph E. Jocke
Reg. No. 31,029

330 • 721 • 0000
MEDINA

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231 South Broadway, Medina, Ohio U.S.A. 44256-2601

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JUN 11 2007

D-1119 R3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Previous Appeal No.: 2006-1285)	
)	
In re Application of: James Meek, et al.)	
)	Art Unit 3627
Application No.: 10/330,730)	
)	
Confirmation No.: 4210)	Patent Examiner
)	Michael A. Cuff
Filed: December 27, 2002)	
)	
Title: ATM Customer Marketing System)	

Director of Technology Center 3600
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

With regard to the Office Action dated April 12, 2007, please find for filing without prejudice in the above identified Application, both a "Petition to Withdraw an Office Action" and a "Petition to Withdraw Premature Final Rejection".

Overview of dates and papers associated with this application

1. 08/15/06 Board decision in Appeal No. 2006-1285. Examiner was reversed.
2. 12/29/06 Office Action ("Action").
3. 03/27/07 Request for reconsideration, including arguments that the Action is absent a Technology Director's approving signature to reopen prosecution, the Action is legally improper, and prosecution legally remains closed.
4. 04/12/07 Final Rejection.

PETITION TO WITHDRAW THE OFFICE ACTIONS

The examiner's attempt in the Action to reopen prosecution after the decision by the Board of Patent Appeals and Interferences ("Board") lacks legal basis. The Examiner was reversed. The legal criteria needed to reopen prosecution after the decision on appeal has not been met by the Office. As a result, the prosecution remains closed, the decision remains pending, and a grant of patent is respectfully expected.

Technology Center Director approval is required to reopen prosecution

As a result of the decision, any attempt to reopen prosecution requires the written authority of a Technology Center Director. The Technology Center Director's approval is required to be placed on an Office action reopening prosecution. Note MPEP § 1214.04, 1214.07, and 1002.02(c)(1). As evidence by the record, the Action (dated December 29, 2006) is absent the required approval from a Technology Center Director to reopen prosecution. Thus, the Action (and any additional Office Action relying thereon) is not legally valid.

The "new" reference relied upon was already negated by the Board in a related prior decision

The Examiner's interpretation of the relied upon reference (Walker US 6,694,300) is inconsistent with (and contrary to) a related Board decision (dated February 28, 2007 in appeal no. 2007-0390, which involved the same Examiner Michael Cuff). The related decision ruled that Walker does not teach or suggest the features and relationships which the Office again attempts (in the Action) to rely upon to reopen prosecution. Thus, the Examiner's attempt to reopen prosecution based on issues already decided by the Board in a related application involving the same Examiner, further renders the Action legally improper.

Also, the Office is not permitted to continually impose new grounds of rejection in an effort to delay a grant of patent to Applicants, especially on issues already considered by the Board in reversing the same Examiner. Such action violates the fundamental legal principle set forth in *Southern Pacific Terminal Co. v. Interstate Commerce Com.*, 219 U.S. 498, 55 L.Ed. 310, 31 S. Cr. 279 (1911). An administrative agency may not disregard judicial decision on its actions by engaging in even further unnecessary (and arbitrary and capricious) activity.

PETITION TO WITHDRAWAL PREMATURE FINAL REJECTION

Applicants further petition for the finality of the Office Action dated April 12, 2007 to be withdrawn due to the premature final rejections therein. Because the Action (dated December 29, 2006) is not legally valid and must be withdrawn (for the reasons discussed above), then any final Office Action based thereon is *prima facie* premature.

If necessary, further reconsideration is requested

If further request for reconsideration is required, then Applicants respectfully request further reconsideration by the Examiner.

Conclusion

Applicants respectfully request that their petitions be granted for the reasons presented herein. The undersigned is willing to discuss any aspect of the petitions by phone at the Office's convenience.

Respectfully submitted,



Ralph E. Jocke Reg. No. 31,029
WALKER & JOCKE
231 South Broadway
Medina, Ohio 44256
(330) 721-0000



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/330,745	12/27/2002	James Meek	D-1119 R4	4199
28995	7590	06/04/2008	EXAMINER	
RALPH E. JOCKE walker & jocke LPA 231 SOUTH BROADWAY MEDINA, OH 44256			CUFF, MICHAEL A	
			ART UNIT	PAPER NUMBER
			3627	
			MAIL DATE	DELIVERY MODE
			06/04/2008	PAPER

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

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



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Commissioner for Patents
United States Patent and Trademark Office
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FROM DIRECTORS OFFICE

JUN 02 2008

TECHNOLOGY CENTER 3600

Ralph E. Jocke
WALKER & JOCKE LPA
231 South Broadway
Medina, Ohio 44256

In re Application of: : **DECISION ON PETITION TO**
JAMES MEEK et al. : **WITHDRAW OFFICE ACTIONS AND**
Appl. No. 10/330,745 : **PREMATURE FINAL REJECTION**
Filed: December 27, 2002 : **UNDER 37 C.F.R. 1.181**
For: **ATM CUSTOMER MARKETING** :
SYSTEM :

This is a decision on Applicants' Petition under 37 CFR 1.181 received on June 11, 2007 requesting withdrawal of the Office actions mailed on December 29, 2006 and April 12, 2007 and further to withdraw premature final rejection of the action on April 12, 2007.

The Petition is **DISMISSED as MOOT.**

A review of the file record reveals that on June 13, 2006, the Examiner was reversed in a decision by the Board of Patent Appeals and Interferences on a rejection of claims 1, 49, 52-55, 57-59, 62, and 69 under 35 U.S.C. 102 as being anticipated by Murphy, and a rejection of claims 48, 50, 51, 56, 60, 61, and 63-68 under 35 U.S.C. 103 as being unpatentable over Murphy in view of Patterson.

The Examiner reopened prosecution on December 29, 2006 with a non-final rejection of claims 1 and 48-69 under 35 U.S.C. 102 as being anticipated by Walker et al. A final rejection of the same claims based on the same art was mailed on April 12, 2007. A second appeal brief was received on November 7, 2007. An allowance of claims 1 and 48-69 was issued on February 11, 2008.

Petitioners argue that the reopening of prosecution on December 29, 2006 after the decision by the Board was not legally valid because it was not authorized by the Director of the Technology Center. Further, Petitioners argue that the finality of the Office action mailed April 12, 2007 is premature because of the illegality of the previous Office action.

A further review of the file history indicates that the Office action mailed December 29, 2006 reopening prosecution after the Board decision was not authorized by the Director as required by 37 C.F.R. 1.198. Therefore, the Office action mailed

December 29, 2006 was improper and further the finality of the subsequent Office action was premature.

However, in view of the Examiner's allowance of claims 1 and 48-69 on February 11, 2008, the petition is moot and thereby dismissed.

SUMMARY: The Petition is **DISMISSED as MOOT.**

Any questions regarding this decision should be directed to Supervisory Patent Examiner F. Ryan Zeender at (571) 272-6790.



Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

FZ 4/14/2008

W



BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN CT 06510

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FEB 24 2005

OFFICE OF PETITIONS

In re Application of :
Mark E. Addis :
Application No. 10/330,746 :
Filed: December 26, 2002 :
Attorney Docket No. 02-757/EH-10649 :

ON PETITION

This is a decision on the petition, filed July 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 May 10, 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 3745 will consider the request for continued examination under 37 CFR 1.114.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/8/07

Paper No.: _____

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction on Patent No.: 7233624

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
- Approved in Part
- Denied

- All changes apply.
- Specify below which changes do not apply.
- State the reasons for denial below.

Comments:

No change in the scope.

Dave Payne
SPE

2611
Art Unit



ofc

PTO/SB/21 (09-04)

Approved for use through 07/31/2006.

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM	Patent Number	7,233,624	
	Issue Date	June 19, 2007	
	First Named Inventor	Kazakevich et al.	
	Application Number	10/330,749	
	Filing Date	December 27, 2002	
(to be used for all correspondence after initial filing)		Attorney Docket Number	I-2-0336.1US
Total Number of Pages in This Submission			

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Request for Certificate of Correction and Form PTO/SB/44
Remarks		

Certificate
OCT 16 2007
of Correction

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	VOLPE AND KOENIG, P.C.		
Signature			
Printed name	Robert D. Leonard		
Date	10/9/2007	Reg. No.	57,204

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature			
Typed or printed name	Robert D. Leonard	Date	10/9/2007

This collection of information is required by 37 CFR 1.5. 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 2 hours 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.

OCT 16 2007



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Effective on 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL

For FY 2008

Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT		(\$)	100
Complete if Known			
Application Number	10/330,749		
Filing Date	December 27, 2002		
First Named Inventor	Kazakevich et al.		
Examiner Name	Dac V. Ha		
Art Unit	2611		
Attorney Docket No.	1-2-0336.1US		

METHOD OF PAYMENT (check all that apply)

Check Credit Card Money Order None Other (please identify): _____

Deposit Account Deposit Account Number: 09-0435 Deposit Account Name: InterDigital Comm. Corp.

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

Charge fee(s) indicated below Charge fee(s) indicated below, **except for the filing fee**

Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17. Credit any overpayments

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.

FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	310	155	510	255	210	105	_____
Design	210	105	100	50	130	65	_____
Plant	210	105	310	155	160	80	_____
Reissue	310	155	510	255	620	310	_____
Provisional	210	105	0	0	0	0	_____

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	210	105
Multiple dependent claims	370	185

Total Claims **Extra Claims** **Fee (\$)** **Fee Paid (\$)**

_____ - 20 or HP = _____ x _____ = 0

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims **Extra Claims** **Fee (\$)** **Fee Paid (\$)**

_____ - 3 or HP = _____ x _____ = 0

HP = highest number of independent claims paid for, if greater than 3.

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$260 (\$130 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets **Extra Sheets** **Number of each additional 50 or fraction thereof** **Fee (\$)** **Fee Paid (\$)**

_____ - 100 = _____ / 50 = _____ (round up to a whole number) x _____ = _____

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount) **Fees Paid (\$)**

Other (e.g., late filing surcharge): Request for Certificate of Correction 100.00

SUBMITTED BY

Signature		Registration No. (Attorney/Agent) 57,204	Telephone 215-568-6400
Name (Print/Type)	Robert D. Leonard	Date	10/9/2007

This collection of information is required by 37 CFR 1.136. 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 30 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.

OCT 16 2007



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the **PATENT** of:

Kazakevich et al.

Patent No.: 7,233,624

Issued: June 19, 2007

Appln. No.: 10/330,749

Filed: December 27, 2002

For: **METHOD AND SYSTEM FOR ALL
DIGITAL GAIN CONTROL**

Our File: I-2-0336.1US

Date: October 9, 2007

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. §255 and 37 C.F.R. §1.323 is requested for U.S. Patent No. 7,233,624. Correction of the following typographical errors is requested.

IN THE ABSTRACT

At section (57), **ABSTRACT**, page 1, right column, line 1, after the word "device", delete "avoid" and insert therefor --avoids--.

10/12/2007 SSESHE2 00000048 090435 7233624

01 FC:1811 100.00 DA

OCT 16 2007

Patentee: Kazakevich et al.
Patent No.: 7,233,624

IN THE SPECIFICATION

At column 2, delete line 11, and insert therefor --BRIEF DESCRIPTION OF THE DRAWINGS--.

At column 3, delete Equation (1), and insert therefor
$$-X = \frac{1}{n} \sum_{k=1}^n s_k$$
 --.

At column 3, line 66, before the first use of the words "of the", delete "relation" and insert therefor --relationship--.

OCT 16 2007

Patentee: Kazakevich et al.
Patent No.: 7,233,624

REMARKS

Patentees believe that the above errors are of such a nature as to justify the issuance of a Certificate of Correction. Patentees have enclosed a completed Certificate of Correction Form PTO/SB/44.

Since at least one of the errors was caused by Applicants, please charge the surcharge fee pursuant to C.F.R. §1.20(a) of \$100.00 to the Deposit Account of InterDigital Communications Corporation, Deposit Account No. 09-0435.

Patentees respectfully request that the Certificate of Correction be issued.

Respectfully submitted,

Kazakevich et al.

By 
Robert D. Leonard
Registration No. 57,204
(215) 568-6400

Volpe and Koenig, P.C.
United Plaza, Suite 1600
30 South 17th Street
Philadelphia, PA 19103

RDL/dcb

OCT 16 2007

UNITED STATES PATENT AND TRADEMARK OFFICE CERTIFICATE OF CORRECTION

Page 1 of 1

PATENT NO. : 7,233,624
 APPLICATION NO.: 10/330,749
 ISSUE DATE : June 19, 2007
 INVENTOR(S) : Kazakevich 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:

IN THE ABSTRACT

At section (57), ABSTRACT, page 1, right column, line 1, after the word "device", delete "avoid" and insert therefor --avoids--.

IN THE SPECIFICATION

At column 2, delete line 11, and insert therefor --BRIEF DESCRIPTION OF THE DRAWINGS--.

At column 3, delete Equation (1), and insert therefor
$$--X = \frac{1}{n} \sum_{k=1}^n s_k --.$$

At column 3, line 66, before the first use of the words "of the", delete "relation" and insert therefor --relationship--.

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

Volpe and Koenig, P.C.
 United Plaza, Suite 1600
 30 South 17th Street
 Philadelphia, PA 19103

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

OCT 16 2007



SACCO & ASSOCIATES, PA
P.O. BOX 30999
PALM BEACH GARDENS FL 33420-0999

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OCT 14 2004

In re Application of :
James J. Rawnick et al :
Application No. 10/330,755 :
Filed: December 27, 2002 :
Attorney Docket No. 7162-47 :

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition, filed October 12, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on 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) 305-8859.

The examiner of Technology Center AU 2821 will consider the request for continued examination under 37 CFR 1.114.


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

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



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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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www.uspto.gov

DLA PIPER LLP (US)
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO, CA 92121-2133

Mail Date: 06/01/2010

Applicant : Jiwu Wang : DECISION ON REQUEST FOR
Patent Number : 7625750 : RECALCULATION OF PATENT
Issue Date : 12/01/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/330,772 : 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 **708** 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.



**WOODARD, EMHARDT, NAUGHTON,
MORIARTY AND MCNETT LLP
BANK ONE CENTER/TOWER
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS IN 46204-5137**

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JUL 16 2007

OFFICE OF PETITIONS

In re Application of	:	
BELL, John Francis III et al.	:	
Application No. 10/330,786	:	DECISION ON PETITION
Filed: December 27, 2002	:	TO WITHDRAW
Attorney Docket No. 20202-55	:	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 20, 2007.

The request is **NOT APPROVED**.

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

The request cannot be approved because there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on November 30, 2006.

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, responsibility for prosecution of the application has been transferred, does not meet any of the conditions set forth in 37 CFR 10.40.

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

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



Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **WONG, CABELLO, LUTSCH,
RUTHERFORD & BRUCCULERI LLP
20333 SH 249
SUITE 600
HOUSTON, TX 77070**



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4050 ROSEMONT BLVD. #1607
MONTREAL, QC
H1X 1M4
CANADA

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NOV 10 2005

OFFICE OF PETITIONS

In re Application of :
Yvan Auger :
Application No. 10/330,794 :
Filed: December 30, 2002 :
Attorney Docket No. :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 9, 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 July 14, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 15, 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.

This application matter is being forwarded to the Publishing Division for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions



LERNER DAVID LITTENBERG
KRUMHOLZ & MENTLIK LLP
600 SOUTH AVE WEST
WESTFIELD NJ 07090

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JUN 21 2005

OFFICE OF PETITIONS

In re Application of
Zhang, et al.
Application No. 10/330,804
Filed: December 27, 2002
Attorney Docket No. BAKER 3.0-025

DECISION ON PETITION

This is a decision on the "PETITION UNDER RULE 1.78", filed September 27, 2004, which is being treated as a petition under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim for priority under 35 U.S.C. 119(e) for the benefit of provisional application 60/344,291.

The petition is **DISMISSED**.

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

- (1) the reference required by 35 U.S.C. § 119(e) and CFR § 1.78(a)(5)(i) of the prior-filed

- application(s), unless previously submitted;¹
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

A reference to add the above-noted , prior-filed application on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. 120 statement. The court specifically stated:

Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. See In re deSeversky, supra. See also MPEP 201.06(c).

¹ Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (see § 1.14).

Accordingly, before the instant petition can be granted, a substitute amendment² deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(6) is required.

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

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

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

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



Charles Pearson
Director
Office of Petitions

² See 37 CFR 1.121



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12531 HIGH BLUFF DRIVE
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MAY 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Helen M. Blau, et al.	:	
Application No. 10/330,811	:	DECISION ON REQUEST
Filed: December 26, 2002	:	TO WITHDRAW
Attorney Docket No. 286002022200	:	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 22, 2005.

The request is **APPROVED**.

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

The request was signed by Kate H. Murashige on behalf of all the attorneys of record who are associated with Customer No. 25225.

While all attorneys/agents associated with the Customer Number 25225 have been withdrawn, the request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named inventor or (2) the assignee of the entire interest. All future communications from the Office will be directed to the first named inventor at the first copied address below until otherwise properly notified by applicant.

Further, it is noted that the power of attorney submitted on December 7, 2005 was improperly accepted by the Office by a letter mailed April 20, 2006. In this regard, the assignee of the entire interest has not properly intervened since the power of attorney was signed by an assignee with

less than the entire right, title and interest. Consequently, the Office communication mailed April 20, 2006 is hereby vacated. There is no attorney of record at this time.

Applicant should note that there is no outstanding Office action that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Sherry D. Brinkley at 571-272-3204.



Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee:  David Bacci

cc: HELEN M. BLAU
580 COTTON STREET
MENLO PARK, CA 94025

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BOZICEVIC, FIELD & FRANCIS LLP
STANFORD UNIVERSITY OFFICE OF TECHNOLOGY LICENSING
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO CA 94303

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MAY 02 2008

In re Application of :
Blau et al. :
Application No. 10/330811 : DECISION DISMISSING PETITIONS
Filed: 12/26/2002 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. STAN-466 :

This is a decision on the petition filed on March 27, 2008, which is treated as 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 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 items (1) and (3).

The amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See Dart Industries v. Banner*, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

The rule at 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) requires 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 statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §§ 1.78(a)(3) and (a)(6). Any renewed petition should include a proper statement as required by 37 CFR §§ 1.78(a)(3) and (a)(6).

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 a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Finally, petitioners should note that line 3 of the petition miscaptions the prior-filed application number as "09/536,106" rather than the correct application number of ~~09/526,106~~. This error should be corrected in any renewed petition.

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

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

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

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231

A handwritten signature in black ink, appearing to read "Anthony Knight", written in a cursive style.

Anthony Knight
Supervisor
Office of Petitions



BOZICEVIC, FIELD & FRANCIS LLP
STANFORD UNIVERSITY OFFICE OF TECHNOLOGY LICENSING
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO CA 94303

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AUG 04 2008

OFFICE OF PETITIONS

In re Application of :
Blau et al. :
Application No. 10/330811 : DECISION ON PETITIONS
Filed: 12/26/2002 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. STAN-466 :

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed May 20, 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 amendment.

The petitions are **GRANTED**.

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

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1641 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.



Anthony Knight
Supervisor
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

Table with 6 columns: APPLICATION NUMBER, FILING or 371(c) DATE, GRP ART UNIT, FIL FEE REC'D, ATTY.DOCKET.NO, TOT CLAIMS, IND CLAIMS. Values: 10/330,811, 12/26/2002, 1641, 768, STAN-466, 57, 3

CONFIRMATION NO. 1063

CORRECTED FILING RECEIPT



77974
Bozicevic, Field & Francis LLP
Stanford University Office of Technology Licensing
1900 University Avenue
Suite 200
East Palo Alto, CA 94303

Date Mailed: 08/04/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections

Applicant(s)

Helen M. Blau, Menlo Park, CA;
Robert F. Balint, Palo Alto, CA;
Thomas S. Wehrman, Redwood City, CA;
Jeng-Horng Her, San Jose, CA;

Power of Attorney: The patent practitioners associated with Customer Number 24353

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/344,757 12/26/2001
and is a CIP of 09/526,106 03/15/2000 ABN
which claims benefit of 60/124,339 03/15/1999
and claims benefit of 60/135,926 05/25/1999
and claims benefit of 60/175,968 01/13/2000

Foreign Applications

If Required, Foreign Filing License Granted: 02/28/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US 10/330,811

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Detection of molecular interactions by beta-lactamase reporter fragment complementation

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
01W 08-04

Paper No. 8

DANIEL S. POLLEY, ESQ.
MALIN, HALEY & DIMAGGIO, P.A.
1936 SOUTH ANDREWS AVENUE
FORT LAUDERDALE, FL 33316

COPY MAILED

JUN 14 2004

OFFICE OF PETITIONS

In re Application of :
Edward J. Domanico :
Application No. 10/330,814 :
Filed: 27 December, 2002 :
Atty Docket No. 9417.6822 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b),¹ filed on 20 February, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 6 April, 2003, for failure to file a timely reply to the Notice to File Missing Parts of Nonprovisional Application mailed on 5 February, 2003, which set a two (2) month shortened period for reply. Notice of Abandonment was mailed on 1 June, 2004.

¹Effective 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 require 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)).

Application No. 10/330,814

2

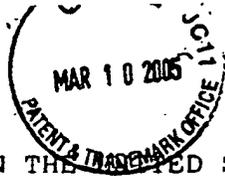
Petitioner has now filed the basic filing fee, corrected drawings, and an abstract.

The 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 (703)308-6918.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions



1764
(fw)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

March 7, 2005

In re application of : Edward J. Domanico
 Serial No. : 10/330,814
 Filed : December 27, 2002
 For : **FLUORESCENT LAMP DISPOSAL SYSTEM**
 Art Unit : 1764
 Our File No. : 9417.6822

CERTIFICATE OF MAILING

I hereby certify that this correspondence, and any attachments thereto, is being deposited with the United States Postal Service, as First Class mail, with sufficient postage, in an envelope addressed to: Mail Stop Petitions, Commissioner For Patents; P. O. Box 1450, Alexandria, VA 22313-1450.

BETTY BEANAL
Name of Person Mailing
Paper

Betty Beanal
Signature

03/07/2005
Date

PETITION TO MAKE SPECIAL

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

Dear Sir:

Applicant hereby requests that the above-identified application be made special based on the state of health of the Applicant, as documented in the enclosed letter from Applicant's doctor (Exhibit "A"). Accordingly, in view applicant's health as evidenced by the attached Exhibit, Applicant specifically requests that this Petition be granted by Patent Office and Applicant's application placed in line for accelerated examination.

PETITION GRANTED

Richard Crispino
Special Program Examiner

TC 1700 MAR 17 2005



Paper No. 4

Dan Swayze
Texas Instruments Incorporated
M/S 3999
P. O. BOX 655474
Dallas TX 75265

COPY MAILED

JUN 23 2003

OFFICE OF PETITIONS

In re Application of
Fujiwara & Miyanojara
Application No. 10/330,818
Filed: December 27, 2002
Attorney Docket No. TI-31510
For: HIGH PSRR CURRENT SOURCE

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

This is in response to the petition under 37 CFR 1.47(a), filed May 12, 2003 (certificate of mailing date May 7, 2003).

The petition is granted.

Petitioner has shown that the non-signing inventor, Akihiko Miyanojara, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Lisa Lynch, Patent Secretary for Jackson Walker LLP, establishes that the inventor was mailed the application papers, including the specification, claims and drawings, received the papers, but failed to respond to the request that he 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.

Pursuant to petitioner's authorization, deposit account no. 20-0668 will be charged the \$130 fee associated with filing a petition under 37 CFR 1.47(a).

After this decision is mailed, the above-identified application will be forwarded to Technology Center 2800 for examination in due course.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions



Paper No. 16

LAW OFFICE OF LAWRENCE E LAUBSCHER, JR
1160 SPA RD
SUITE 2B
ANNAPOLIS, MD 21403

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APR 13 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Robertus Laurentius Van Der Valk, et al. :
Application No. 10/330,836 :
Filed: December 27, 2002 :
Attorney Docket No. 23211 :

This is a decision on the petition, filed April 12, 2004, under 37 CFR(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

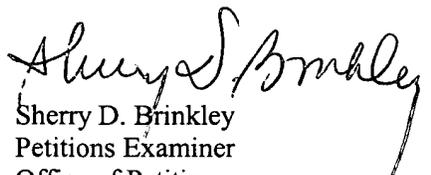
The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 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 relating to this decision should be directed to the undersigned at (703) 305-9220.

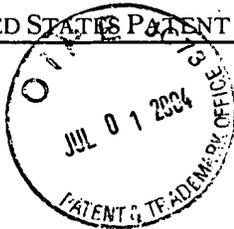
The application is being forwarded to Technology Center AU 2816 for further processing of the request for continued examination under 37 CFR 1.114.


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

¹The 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 indicted as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language on bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).



UNITED STATES PATENT AND TRADEMARK OFFICE



COPY

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

Paper No. **RECEIVED**

LAW OFFICE OF LAWRENCE E LAUBSCHER, JR
1160 SPA RD
SUITE 2B
ANNAPOLIS, MD 21403

COPY MAILED JUL 09 2004
APR 13 2004 **TECH CENTER 2800**

In re Application of
Robertus Laurentius Van Der Valk, et al.
Application No. 10/330,836
Filed: December 27, 2002
Attorney Docket No. 23211

duplicate

OFFICE OF PETITIONS
ON PETITION

This is a decision on the petition, filed April 12, 2004, under 37 CFR(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

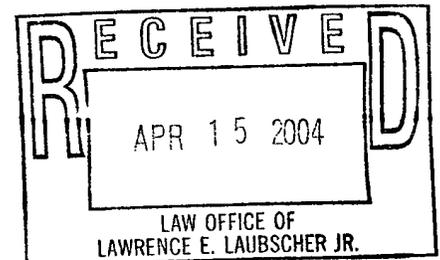
*Petitioner is advised that the issue fee paid on January 20, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.*¹

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

The application is being forwarded to Technology Center AU 2816 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley

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



¹The 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 indicted as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language on bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).



Paper No. 8

John R. Posthumus, Esq.
Greenberg Traurig, LLP
1200 Seventeenth Street, Suite 2400
Denver, CO 80202

COPY MAILED

JAN 06 2004

OFFICE OF PETITIONS

In re Application of	:	
Tim Kast	:	DECISION REFUSING
Application No. 10/330,839	:	STATUS UNDER
Filed: December 27, 2002	:	37 CFR 1.47(b)
Attorney Docket No. 07387-00693	:	
For: APPARATUS, SYSTEM AND METHOD	:	
FOR NON-CHEMICAL TREATMENT	:	
AND MANAGEMENT OF COOLING	:	
WATER	:	

This is in response to the petition under 37 CFR 1.47(b), filed August 25, 2003.

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

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

- (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
- (2) an acceptable oath or declaration;
- (3) the petition fee;
- (4) a statement of the last known address of the non-signing inventor;
- (5) proof of proprietary interest; and
- (6) proof of irreparable damage.

Applicant lacks item (5) set forth above.

As to item (5), Rule 47 applicant has failed to show or provide proof that Global Water Technologies has sufficient proprietary interest in the subject matter to justify the filing of the application (see MPEP 409.03(f)). Acceptable proof would include:

- (1) a copy of the employment agreement between the non-signing inventor and the Rule 47(b) applicant,
- (2) a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 47(b) applicant, or
- (3) a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 47(b) applicant.

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

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

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

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

By hand:¹ U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.



Charles Steven Brantley
Petitions Attorney
Office of Petitions

¹ If the response is mailed using a service other than the United States Postal Service, such as Federal Express or United Parcel Service, then this address may be used by such service.



Paper No. 14

GLOBAL WATER TECHNOLOGIES
1767 DENVER WEST BLVD
GOLDEN, CO 80401

COPY MAILED

MAY 24 2004

OFFICE OF PETITIONS

In re Application of	:	
Tim Kast	:	DECISION REFUSING
Application No. 10/330,839	:	STATUS UNDER
Filed: December 27, 2002	:	37 CFR 1.47(b)
Attorney Docket No. 07387-00693	:	
For: APPARATUS, SYSTEM AND METHOD	:	
FOR NON-CHEMICAL TREATMENT	:	
AND MANAGEMENT OF COOLING	:	
WATER	:	

This is in response to the renewed petition under 37 CFR 1.47(b), filed May 6, 2004.

The petition is dismissed.

Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor.

Normally the petition under 37 CFR 1.47(b) would be granted. However, the application cannot be granted at this time because the petition was not accompanied by payment for the appropriate extension of time.

The paper filed on May 6, 2004 authorized the Office to charge \$210 to deposit account no. 50-2775. However, when the Office attempted to charge the fee, the account only contained \$80.

This decision does not set a new time period for reply. Therefore, the extension of time payment amount submitted with any request for reconsideration should be based on the mailing date of the prior decision - January 6, 2004. For example, if a request for reconsideration were submitted on June 1, 2004, it would need to be accompanied by payment for a *three* month extension of time.

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

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

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

cc: John R. Posthumus, Esq.
Greenberg Traurig, LLP
1200 Seventeenth Street, Suite 2400
Denver, CO 80202



Paper No. 18

John R. Posthumus, Esq.
Greenberg Traurig, LLP
1200 Seventeenth Street, Suite 2400
Denver, CO 80202

COPY MAILED

AUG 25 2004

OFFICE OF PETITIONS

In re Application of :
Tim Kast :
Application No. 10/330,839 :
Filed: December 27, 2002 :
Attorney Docket No. 07387-00693 :
For: APPARATUS, SYSTEM AND METHOD :
FOR NON-CHEMICAL TREATMENT :
AND MANAGEMENT OF COOLING :
WATER :

DECISION ACCORDING
STATUS UNDER
37 CFR 1.47(b)

This is in response to the renewed petition under 37 CFR 1.47(b), filed June 2, 2004.

The petition is **granted**.

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

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

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

Telephone inquiries may be directed to Petitions Attorney Steven Brantley at (703) 306-5683 prior to September 27, 2004, and (571) 272-3203 thereafter.

Charles Steven Brantley
Petitions Attorney
Office of Petitions



Paper No. 19

Timothy Kast
2388 East Lookout Drive
Coeur d'Alene, Idaho 83815

COPY MAILED

AUG 25 2004

OFFICE OF PETITIONS

Letter

In re Application of :
Timothy Kast :
Application No. 10/330,839 :
Filed: December 27, 2002 :
Attorney Docket No. 07387-00693 :
For: APPARATUS, SYSTEM AND METHOD :
FOR NON-CHEMICAL TREATMENT :
AND MANAGEMENT OF COOLING :
WATER :

Dear Mr. Kast:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As 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 may be directed to Petitions Attorney Steven Brantley at (703) 306-5683 prior to September 27, 2004, and (571) 272-3203 thereafter.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: John R. Posthumus, Esq.
Greenberg Traurig, LLP
1200 Seventeenth Street, Suite 2400
Denver, CO 80202



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 06/01/2010

Applicant : Matthew A. Hayduk : DECISION ON REQUEST FOR
Patent Number : 7636371 : RECALCULATION of PATENT
Issue Date : 12/22/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/330,840 : 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 **1484** 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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Cooper & Dunham LLP
1185 Avenue of the Americas
New York, NY 10036

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OCT 01 2008
OFFICE OF PETITIONS

In re Application of :
Chin-Hsin Yang :
Application No. 10/330,857 : DECISION ON PETITION
Filed: December 26, 2002 :
Attorney Docket No. 7257/68735 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 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 Rejection mailed, May 23, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136 (a) were obtained. Accordingly, the application became abandoned on August 24, 2004.

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

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 "under 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 3 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on August 25, 2005. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Cooper & Dunham LLP was counsel of record at the time of abandonment, they should explain why this application became abandoned while it was under their control and what efforts they made to further reply of itself and with whom this matter was discussed. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), and whoever else was involved with this application at the time of abandonment. Statements are required from any and all person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (over 3 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at Cooper & Dunham LLP 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).

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37CFR 1.34(a), the signature of Y. Jenny Chen appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If petitioner desires to receive future correspondence regarding this patent, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision will be mailed to the address on the petition.

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.

Any renewed petition may be addressed as follows:

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

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

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

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

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


Brian Brown
Petitions Examiner
Office of Petitions

cc: Y. Jenny Chen
Occhiuti Rohlicek & Tsao LLP
10 Fawcett Street
Cambridge, MA 02138



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EXXONMOBIL RESEARCH AND ENGINEERING COMPANY
P.O. BOX 900
1545 ROUTE 22 EAST
ANNANDALE, NJ 08801-0900

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MAY 18 2004

In re Application of :
Gabor Kiss et al :
Application No. 10/330,860 :
Filed: December 27, 2002 :
Attorney Docket No. P2002J105 :

OFFICE OF PETITIONS
ON PETITION

This is a decision on the petition, filed May 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 April 5, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

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

The file will be forwarded to Technology Center AU 1621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Irvin Dingle
Petitions Examiner
Office of Petitions
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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FROM DIRECTORS OFFICE**

MAR 03 2006

TECHNOLOGY CENTER 3600

Ralph E. Jocke
Walker & Jocke
231 South Broadway
Medina, Ohio 44256

Paper No. 022106

In re Application of:	:	DECISION ON PETITION
James Meek et al.	:	UNDER 37 CFR 1.181
Application No. 10/330,877	:	
Filed: December 27, 2002	:	
Attorney Docket No.: D-1119 R6	:	
For: ATM CUSTOMER	:	
MARKETING SYSTEM	:	

This is in response to applicants' petition under 37 CFR 1.181 filed October 3, 2005 requesting withdrawal of the finality of the Office action mailed July 13, 2005 as being premature.

The Petition is **DENIED**.

Applicant alleges that the final rejection mailed July 13, 2005 is premature because the Final rejection is legally improper.

MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicants' amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

A review of the record reveals that the examiner issued a new ground of rejection based on 35 USC 102 citing Amundsen, WO 99/08214 in a Final rejection mailed on July 13, 2005 in response to an amendment filed by Applicants dated December 30, 2004. The examiner clearly indicated that this new ground of rejection was necessitated by Applicants' amendment. A review of Applicants' amendment filed December 30, 2004 shows that substantial amendments were made to all the independent claims in addition to amendments to other claims that would necessitate a new ground of rejection by the examiner. Applicants subsequently filed an After Final response dated June 17, 2005, with no claim amendments, arguing that the newly applied Amundsen reference was not prior art with respect to at least

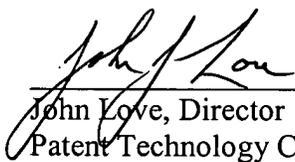
one of the limitations in the independent claims and that even if the Amundsen reference was prior art with respect to the claimed invention, Amundsen did not disclose all claim limitations and therefore, the Final rejection was premature. In response, the Examiner issued a new ground of rejection based on 35 USC 102 using a newly cited reference to Walker et al., U.S. Pat. No. 6,694,300 in a second Final Rejection mailed on July 13, 2005. The Walker reference was used to disclose a teaching reference with a superior date to Applicant's earliest priority date. The Examiner clearly indicated that this new ground of rejection was necessitated by Applicants' amendment.

Applicants argue that the second Final rejection is legally improper since Applicant did not amend the claims in the After Final response dated June 17, 2005. In addition, Applicants further argue that no information disclosure statement was filed in the June 17, 2005 After Final response so the new ground of rejection could not be based on information submitted in an information disclosure statement. Therefore, Applicants argue that the Examiner could not introduce new grounds of rejection and make the rejection a Final rejection of the claims in reply to the After Final response dated June 17, 2005.

It is noted that Applicants' argument is based on the After Final response dated June 17, 2005, which did not amend the claims, and not on Applicants' amendment dated December 30, 2004 where the claims were substantially amended. According to office practice, when determining whether new grounds of rejection in a second or subsequent rejection were necessitated by Applicants' amendment and ultimately whether the rejection of the claims is a Final rejection, the amendment in response to the action prior to the Final Rejection is the amendment under consideration. In the instant case, Applicants' amendment dated December 30, 2004 was filed in response to the non final office action mailed on October 13, 2004. In addition, Applicants' amendment dated December 30, 2004 substantially amended the claims. The Examiner introduced new grounds of rejection in the Final rejection mailed on July 13, 2005. The new grounds of rejection in the Final Rejection mailed on July 13, 2005 were necessitated by Applicants' amendment that was dated December 30, 2004. Therefore, the Final rejection is proper.

For the foregoing reasons, the finality of the office action mailed July 13, 2005 is proper and accordingly the petition to withdraw the finality of the final office action is denied.

Inquiries related to this decision may be directed to Supervisory Patent Examiner Alexander Kalinowski at (571) 272-6771.



John Love, Director
Patent Technology Center 3600
(571) 272-5250
FAX (571) 273-3600

OCT 03 2005



Ralph E. Jocke
Patent
&
Trademark Law

FACSIMILE TRANSMISSION COVER SHEET

TRANSMITTING: 6 PAGES (INCLUDING THIS PAGE)

NAME: Director of Technology Center 3600
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

FAX NUMBER: (571) 273-8300

DATE: October 3, 2005

SENDER: Ralph E. Jocke, Esq.

FAX NUMBER: (330) 722-6446

PHONE NUMBER: (330) 721-0000

COMMENTS: Petition for entry in Application No. 10/330,877 (Docket No. D-1119 R6).
Please refer to the following.

If you do not receive all pages, contact the sender IMMEDIATELY at the number listed below.

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CERTIFICATION UNDER 37 C.F.R. SECTIONS 1.8(a) AND 1.6(d)

TRANSMISSION

I hereby certify that, on the date shown below, this correspondence is being transmitted by facsimile to the Patent and Trademark Office at (571) 273-8300.

Date: 10/3/2005

Ralph E. Jocke

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OCT 03 2005

October 3, 2005

Director of Technology Center 3600
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Attn: Art Unit 3627
Patent Examiner Michael Cuff

Re: Application Serial No.: 10/330,877
Confirmation No.: 1366
Applicants: James Meek, et al.
Title: ATM Customer Marketing System
Docket No.: D-1119 R6

Sir:

Please find enclosed a Petition pursuant to 37 C.F.R. § 1.181 requesting withdrawal of a premature final rejection for filing in the application.

No fee is deemed required. However, the Commissioner is authorized to charge any necessary fee associated with the filing of the Petition, and any other fee due, to Deposit Account 09-0428.

Very truly yours,



Ralph E. Jocke
Reg. No. 31,029

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OCT 03 2005

003

D-1119 R6

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)	
James Meek, et al.)	
)	
Application No.: 10/330,877)	Art Unit 3627
)	
Confirmation No.: 1366)	
)	
Filed: December 27, 2002)	Patent Examiner
)	Michael Cuff
)	
Title: ATM Customer Marketing System)	

Director of Technology Center 3600
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

Kindly enter the following petition without prejudice, which is being submitted within two months of the Office Action dated September 21, 2005:

PETITION TO WITHDRAWAL PREMATURE FINAL REJECTION

Overview of dates and papers associated with this application

1. 12/13/04 Mail Non-Final Rejection.
2. 12/30/04 Response filed.
3. 05/18/05 Mail 1st Final Rejection.
Claims 56 and 82-83 rejected as anticipated by Amundsen.
4. 06/17/05 AF Response filed, with no claim amendments.
5. 07/13/05 Mail new Final Rejection with new rejections. 06/17/05 Response entered.
Vacated the previous rejection based on *Amundsen*.
Claims 56 and 82-83 newly rejected as anticipated by *Walker*.
6. 09/01/05 AF Response filed, with a Request to withdraw premature final rejection.
7. 09/21/05 Mail Advisory Action. Applicants' 09/01/05 Request denied.

This petition is the result of the Office denying Applicants' request for withdrawal of the pending premature final rejection. Applicants petition for the finality of the Office Action dated July 13, 2005 to be withdrawn due to the premature final rejection therein.

Applicants' Response filed June 17, 2005 did not contain any amendment, but rather pointed out the errors in the prior Office Action dated May 18, 2005. In response thereto, the Office (on July 13, 2005) substituted a Walker-based new ground of rejection (against claims 56 and 82-83) for the previous Amundsen-based rejection. The Office then made this Walker-based new ground of rejection Final. Applicants assert, based on the laws, rules, and patent examining

procedures, that the Final rejection dated July 13, 2005 is legally improper. The Office can't make a new ground of rejection final (July 13, 2005) in response to an entered non amending Response (June 17, 2005).

MPEP 706.07(a) states:

"Under present practice, second or any subsequent actions on the merits shall be final, *except where the examiner introduces a new ground of rejection* that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p)."

Applicants respectfully submit that since their Response filed June 17, 2005 did not contain any amendment, the new ground of rejection in the next Office Action (dated July 13, 2005) could not have been necessitated by amendment. Furthermore, since no information disclosure statement was in the Response filed June 17, 2005, the new ground of rejection could not have been based on information submitted in an information disclosure statement. The record shows that the conditions did not meet the legal criteria for the Office to apply a Final rejection on July 13, 2005. Therefore, the Final rejection is *prima facie* premature.

Furthermore, because of the finality of the rejection in the Office Action dated July 13, 2005, Applicants have not been given an opportunity in accordance with 37 C.F.R. 1.111 to properly rebut the Office's newly imposed ground of rejection. Again, Applicants respectfully submit that the finality of the Office Action dated July 13, 2005 is premature and should be withdrawn.

For reasons previously discussed, the Walker reference must first be applied in a new non final rejection in order to be legally proper. This situation has not yet occurred. As the Walker-based rejection is not legally pending, claims 56 and 82-83 stand allowed.

Applicants petition that the pending final rejection (set forth in the Office Action dated July 13, 2005) be withdrawn because it is premature. Applicants respectfully submit that their claims 1 and 48-86 set forth on September 1, 2005 are the currently pending claims.

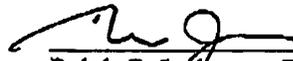
If necessary, then further reconsideration is requested

If a further request for reconsideration is required, then Applicants respectfully request further reconsideration by the Examiner.

Conclusion

Appellants' petition should be granted for the reasons presented herein. The undersigned is willing to discuss any aspect of the Application by telephone at the Office's convenience.

Respectfully submitted,



Ralph E. Jocke Reg. No. 31,029
WALKER & JOCKE
231 South Broadway
Medina, Ohio 44256
(330) 721-0000



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Covington & Burling
1201 Pennsylvania Avenue, N.W.
Washington, DC 20004-2401

In re Application of : DECISION ON PETITION
Bradley P. Glassman et al : TO MAKE SPECIAL
Serial No. : 10/330,889 : (INFRINGEMENT)
Filed : December 26, 2002 :
For : Method and Apparatus for Dispensing a Composition :

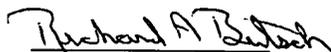
This is a decision on the petition under C.F.R. § 1.102(d) filed December 6, 2004 to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(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 December 6, 2004 includes all of the requirements above and, therefore, the petition is **GRANTED**.

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

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


Richard A. Bertsch, Director
Technology Center 3700
Phone: (571) 272-3750
ak/3/4/05



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WOODCOCK WASHBURN LLP
One Liberty Place – 46th Floor
Philadelphia, PA 19103

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JUN 2 5 2005

Technology Center 2100

In re Application of:
Raymond P. STATA, et al.
Application No.: 10/330,898
Filed: December 26, 2002
For: SYSTEMS AND METHODS FOR
SELECTING A DATE OR RANGE OF
DATES

DECISION ON REQUEST TO
WITHDRAW AS ATTORNEY
OR AGENT

This is a decision on the Request to Withdraw from Representation filed May 25, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All 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.

Serial No.: 10/330,898
Decision on Petition

- 2 -



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

cc: Hickman Palermo Truong & Becker LLP
2055 Gateway Place
Suite 550
San Jose, CA 95110

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/7/06 Paper No.: _____
TO SPE OF : ART UNIT 1755
SUBJECT : Request for Certificate of Correction for Appl. No.: 10/330920 Patent No.: 7094449

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: No new matter

J. A. LORENZO
SUPERVISORY PATENT EXAMINER
SPE
1755
Art Unit



UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUL 25 2007

OFFICE OF PETITIONS

MARO GARZA
3833 BRIGADOON
SAN JOSE, CA 95121

In re Application of :
Ebo Croffie, et al. :
Application No. 10/330,929 : ON PETITION
Filed: December 27, 2002 :
Attorney Docket No. 02-0312 :

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

It is noted that the petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of James R. Foley appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. If Mr. Foley desires to receive future correspondence regarding this application, then the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The petition is **GRANTED**.

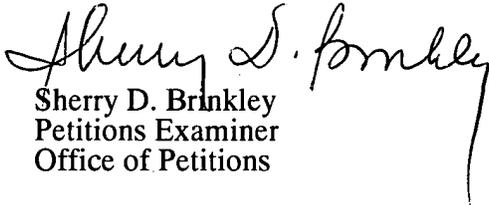
The application became abandoned for failure to pay the issue fee on or before November 9, 2006: A Notice of Abandonment was mailed on December 6, 2006. In response, on April 2, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that the petitioner has supplied (1) the reply in the form of the requisite issue fees; (2) the petition fee of \$1,500; and (3) an adequate statement of unintentional delay¹.

While receipt is acknowledged of the issue fee on April 2, 2007, there is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). If petitioner desires to have the information normally found on the PTOL-85b printed on the patent, then the enclosed form should be completed and returned to Publishing Division within ONE MONTH from the mail date of this decision.

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

Telephone 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

Enclosure

cc: JAMES FOLEY,
TREXLER BUSHNELL GIANGIORGI
BLACKSTONE & MARR, LTD.
105 W ADAMS ST, 36TH FLOOR
CHICAGO, IL 60603

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 08/09/2006

Maro Garza
 3833 Brigadoon
 San Jose, CA 95121

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.
10/330,929	12/27/2002	Ebo Croffie	02-0312	9456

TITLE OF INVENTION: PROCESS WINDOW COMPLIANT CORRECTIONS OF DESIGN LAYOUT

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1400	\$300	\$0	\$1700	11/09/2006

EXAMINER	ART UNIT	CLASS-SUBCLASS
FREJD, RUSSELL WARREN	2128	703-014000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).
 Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
 "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list
 (1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
 (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____
 2 _____
 3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE _____ (B) RESIDENCE: (CITY and STATE OR COUNTRY) _____

Please check the appropriate assignee category or categories (will not be printed on the patent): Individual Corporation or other private group entity Government

4a. The following fee(s) are submitted:

- Issue Fee
 Publication Fee (No small entity discount permitted)
 Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- A check is enclosed.
 Payment by credit card. Form PTO-2038 is attached.
 The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____
 Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.



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MARO GARZA
3833 BRIGADOON
SAN JOSE, CA 95121

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AUG 08 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of
Ebo Croffie, et al.
Application No. 10/330,929
Filed: December 27, 2002
Attorney Docket No. 02-0312

:
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:
:
:
:

This is a corrected decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed April 2, 2007. Consequently, the decision mailed July 25, 2007, is hereby vacated.

It is noted that the petition is noted signed by an attorney or record. However, in accordance with 37 CFR 1.34, the signature of James R. Foley appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to Mr. Foley. If, Mr. Foley desires to receive correspondence regarding this file, then the appropriate power of attorney documents must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

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 review of the record discloses that on August 9, 2006, a Notice of Allowance and Fee(s) Due was mailed, along with a Notice of Allowability, requiring the issue fee on or before November 9, 2006. Thereafter, on August 29, 2006 the Office of Patent Publications issued a Notice Regarding Drawings requiring corrections to the drawings filed December 27, 2002. The Notice of August 29, 2006 set a two-month, non-extendable period for response. On April 2, 2007, the present petition was filed.

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

The instant petition lacks item 1. Receipt is acknowledged of the requisite issue/publication fees on April 2, 2007; however, the corrected drawings as required by the Notice mailed August 29, 2006, have not been provided. At present, the petition does not comply with 37 CFR 1.137(b).

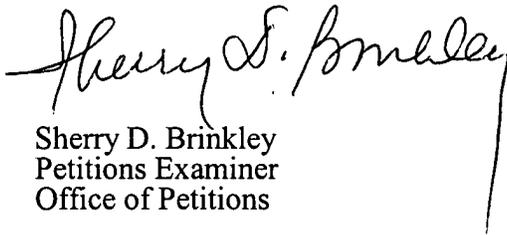
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
 Commissioner for Patents
 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.



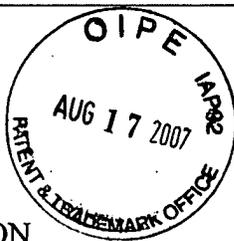
Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JAMES FOLEY
 TREXLER BUSHNELL GIANGIORGI
 BLACKSTONE & MARR, LTD
 105 W ADAMS ST, 36TH FLOOR
 CHICAGO, IL 60603



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MARO GARZA
3833 BRIGADOON
SAN JOSE, CA 95121

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AUG 08 2007

In re Application of
Ebo Croffie, et al.
Application No. 10/330,929
Filed: December 27, 2002
Attorney Docket No. 02-0312

OFFICE OF PETITIONS

ON PETITION

This is a corrected decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed April 2, 2007. Consequently, the decision mailed July 25, 2007, is hereby vacated.

It is noted that the petition is noted signed by an attorney or record. However, in accordance with 37 CFR 1.34, the signature of James R. Foley appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to Mr. Foley. If, Mr. Foley desires to receive correspondence regarding this file, then the appropriate power of attorney documents must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

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 review of the record discloses that on August 9, 2006, a Notice of Allowance and Fee(s) Due was mailed, along with a Notice of Allowability, requiring the issue fee on or before November 9, 2006. Thereafter, on August 29, 2006 the Office of Patent Publications issued a Notice Regarding Drawings requiring corrections to the drawings filed December 27, 2002. The Notice of August 29, 2006 set a two-month, non-extendable period for response. On April 2, 2007, the present petition was filed.

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

The instant petition lacks item 1. Receipt is acknowledged of the requisite issue/publication fees on April 2, 2007; however, the corrected drawings as required by the Notice mailed August 29, 2006, have not been provided. At present, the petition does not comply with 37 CFR 1.137(b).

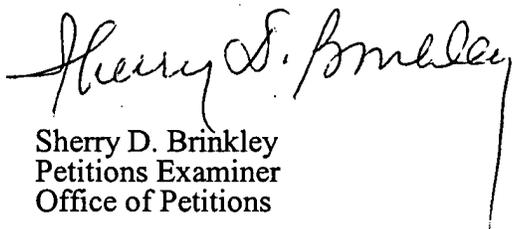
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
 Commissioner for Patents
 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

cc: JAMES FOLEY
 TREXLER BUSHNELL GIANGIORGI
 BLACKSTONE & MARR, LTD
 105 W ADAMS ST, 36TH FLOOR
 CHICAGO, IL 60603



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MARO GARZA
3833 BRIGADOON
SAN JOSE, CA 95121

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OCT 24 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Ebo Croffie, et al. :
Application No. 10/330,929 :
Filed: December 27, 2002 :
Attorney Docket No. 02-0312 :

This is a decision on the renewed petition, filed October 1, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

A review of the record discloses that the above-identified application became abandoned for failure to respond in a timely manner to the Notice of Allowance/Allowability mailed August 9, 2006, which set a statutory period for reply of three (3) months. A Notice of Abandonment was mailed on December 6, 2006. On April 2, 2007, a petition under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed August 8, 2007. In response, on October 1, 2007, the present petition was filed.

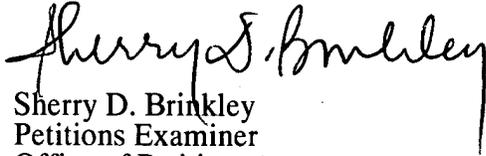
There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy 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.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings and the requisite the issue fee; (2) the petition fee of \$1,500; and (3) an adequate statement of unintentional delay¹.

The application is being referred to the Office of Publications to oversee the review of the drawing filed October 1, 2007.

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

Telephone inquires related to this decision may be directed to the undersigned at (571) 272-3204.
Status inquires related to processing at Publishing Division should be directed to (571) 272-4200.



Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JAMES R. FOLEY
TREXLER BUSHNELL GIANGIORGI
BLACKSTONE & MARR, LTD.
105 W ADAMS ST, 36TH FLOOR
CHICAGO, IL 60603



MAILED

BRIAN ROFFE, ESQ
11 SUNRISE PLAZA, SUITE 303
VALLEY STREAM, NY 11580-6170

NOV 10 2003

Paper No. 4

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of
David S. Breed
Application No. 10/330,938
Filed: December 27, 2002
For: VEHICLE PART CONTROL SYSTEM INCLUDING
ELECTRONIC SENSORS

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

This is a decision on the petition submitted on October 14, 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**.

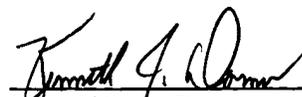
An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a copy of a passport from the applicant showing that he is at least 65 years of age.

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

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

SUMMARY: Petition to Make Special GRANTED.



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

KJD/cps 11/6/03



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
FROM DIRECTORS OFFICE

MAY 01 2007

TECHNOLOGY CENTER 3600

Brian Roffe, Esq.
11 Sunrise Plaza Ste. #303
Valley Stream, NY 11580

In re application of : **DECISION ON PETITION**
David S. Breed : **TO MAKE SPECIAL**
Application No. 10/330,955 : **(APPLICANT'S AGE)**
Filed: December 27, 2002 :
For: SELF-CONTAINED AIRBAG SYSTEM :

This is a decision on the petition submitted on April 11, 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**.

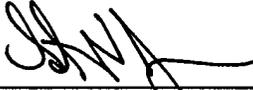
An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a copy of Mr. Breed's passport 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
Technology Center 3600
(571) 272-6611

SNM/dew: 04/30/07



UNITED STATES PATENT AND TRADEMARK OFFICE

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

AUG 17 2005

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of
Osamu HONMOU et al.
Serial No.: 10/330,963
Filed: December 23, 2002
Attorney Docket No.: 084335-0174

PETITION TO MAKE SPECIAL

This is in response to applicants' petition filed August 8, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant. No fee is required for this petition.

Applicants have 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 William Dixon by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number.

William Dixon
Special Program Examiner
Technology Center 1600



UNITED STATES PATENT AND TRADEMARK OFFICE

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

UNITY SEMICONDUCTOR CORPORATION
250 NORTH WOLFE ROAD
SUNNYVALE, CA 94085

COPY MAILED

JUL 28 2005

In re Patent No. 6,831,854 :
Issued: December 14, 2004 :
Application No. 10/330,964 : PATENT TERM ADJUSTMENT
Filed: December 26, 2002 :
Atty. Dkt. No.: UNTYP004 :

OFFICE OF PETITIONS

This is a decision on the "Application for Patent Term Adjustment under 37 CFR § 1.705(d)," filed January 13, 2005, requesting that the above-identified patent be accorded a patent term adjustment of 62 days.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is **GRANTED AS INDICATED HEREIN.**

The above-identified application matured into U.S. Patent No. 6,831,854 on December 14, 2004. The instant request for reconsideration was timely filed January 13, 2005 in accordance with 37 CFR 1.705(d).

The patent issued with a PTA of zero days. Applicants argue that the adjustment of 112 days should have been reduced 50 days in connection with the amendment after Notice of Allowance that was filed August 2, 2004, thus reducing the patent term adjustment to 62 days.

A review of the application history reveals that an adjustment of 112 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1).

An amendment under 37 CFR 1.312 was filed August 2, 2004. A response to the amendment was mailed September 21, 2004. Thus, the adjustment of 112 days is reduced 51 days in accordance with 37 CFR 1.704(c)(10). The reduction began August 2, 2004, the date the amendment was filed, and ended September 21, 2004, the date a response to the amendment was mailed.

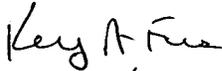
Therefore, at the time of issuance, the patent was entitled to a PTA 61 days.

The PTA indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of 61 days.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 61 days.

The Office acknowledges submission of the required application fee of \$200.00.

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



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

CC: Draft Certificate of Correction



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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DEC 14 2004

OFFICE OF PETITIONS

UNITY SEMICONDUCTOR CORPORATION
250 NORTH WOLFE ROAD
SUNNYVALE, CA 94085

In re Application of :
Rinerson, et al. : DECISION ON APPLICATION FOR
Application No. 10/330,965 : PATENT TERM ADJUSTMENT
Filed: December 26, 2002 :
Atty. Dkt. No.: UNTYP008 :

This is a decision on the "Application for Patent Term Adjustment under 37 CFR 1.705(b)" filed October 8, 2004.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED**.

Applicants request that the Determination of Patent Term Adjustment be corrected from the 4 days determination indicated on the Determination of Patent Term Adjustment mailed September 16, 2004 to an adjustment of 48 days. Applicants do not dispute the delay of 48 days attributed to the Office under 37 CFR 1.702(a)(1). Applicants, however, argue that the reduction of 44 days for applicants' failure to engage in reasonable efforts to conclude prosecution under 37 CFR 1.704(c)(8) is in error.

A review of the application history reveals that in accordance with 37 CFR 1.702(a)(1) and 37 CFR 1.703(a)(1), an adjustment of 48 days can be attributed to the Office¹. The adjustment of 48 days was errantly reduced 44 days for applicants' submission of a supplemental amendment on August 26, 2004. In accordance with 37 CFR 1.704(c)(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. While no interview summary is contained in the application file to support applicants' argument that the supplemental amendment was requested by the examiner, the supplemental amendment submitted August 26, 2004 does in fact reference the examiner's request. Accordingly, the submission of the supplemental amendment will not be considered a failure to engage in reasonable efforts to conclude prosecution.

¹The delay began February 27, 2004, the day after the day that is fourteen months from the date the application was filed, and ended April 14, 2004, the date the non-final Office action was mailed.

Accordingly, the period of patent term adjustment is 48 days as argued by applicant.

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

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Alesia M. Brown at (703) 305-0310.

Karin A Ferriter
KF

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

Enclosure: Copy of Adjustment PAIR Calculation

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060406

DATE : April 6, 2006

TO SPE OF : ART UNIT 2824

SUBJECT : Request for Certificate of Correction on Patent No.: 6,850,455 B2

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

Please complete this form and return with file, within 7 days to:

Certificates of Correction Branch - PK 3-910

Palm location 7590 - Tel. No. 305-8201

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

Thank You For Your Assistance

Certificates of Correction Branch

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

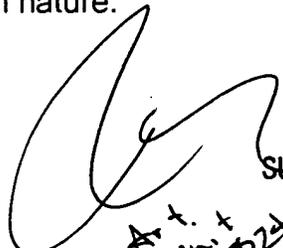
Specify below which changes **do not** apply.

Denied

State the reasons for denial below.

Comments:

The correction, filed 22 February 2006 (and a duplicate, filed 16 March 2006), is denied, since it is not merely formal in nature.


4/6/06
Art. Unit 2824

RICHARD ELMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE: Richard Elms

Art Unit 2824

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060626

DATE : June 26, 2006

TO SPE OF : ART UNIT 2824

SUBJECT : Request for Certificate of Correction on Patent No.: 6,850,455

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:

Ineffective incorporation by reference (see applicant's request for consideration filed on 04/26/2006 pages 2-3)

- Van Thu Nguyen 6/27/06



RICHARD ELMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

6/27/06 SPE: Richard Elms

Art Unit 2824



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Charles A. Johnson
Unisys Corporation
P O Box 64942 MS 4773
St. Paul MN 55164

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JAN 1 0 2008

OFFICE OF PETITIONS

In re Application of :
Gregory B. Wiedenman et al. :
Application No. 10/330,995 :
Filed: December 27, 2002 :
Attorney Docket No. RA 5479 (USYS.053PA) :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 22, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 19, 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) was obtained. Accordingly, the date of abandonment of this application is October 20, 2006. The Notice of Abandonment was mailed February 7, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$790, and the submission required by 37 CFR 1.114; (2) the petition fee of \$1,500; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2186 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.



Liana Walsh
Petitions Examiner
Office of Petitions

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)
6,974,110	2005-12-13	10/331,007	2002-12-27	1005-002-CIP

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 |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 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

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.

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	/Michael B. Farber/	Date (YYYY-MM-DD)	2010-01-26
Name	Michael B. Farber	Registration Number	32612

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. 6974110 :
Issue Date: December 13,2005 :
Application No. 10331007 :DECISION GRANTING PETITION
Filed: December 27,2002 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 37865.00002.CIP :

This is a decision on the electronic petition, filed January 26,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 26,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/331,010			

EXAMINER	
ART UNIT	PAPER NUMBER

DATE MAILED:

The decision on the petition filed in the above entitled application is as follows:

Delay in Prosecution Held Unavoidable (35 U.S.C. 133),
Petition Granted _____

Delayed Payment of Issue Fee Accepted (35 U.S.C. 151),
Petition Granted _____

Petition Granted To accept color photos

Petition Denied _____

Petition Dismissed _____

By direction of the Deputy
Assistant Commissioner for Patents

BRUCE R. CAMPPELL, PH.D.
SENIOR PATENT EXAMINER
TECHNOLOGY CENTER 1600



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Paper No.

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

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JAN 25 2007

OFFICE OF PETITIONS

Patent No. 7,038,917 : LETTER REGARDING
Issue Date: May 2, 2006 : PATENT TERM ADJUSTMENT
Application No. 10/331,032 : AND
Filed: December 27, 2002 : NOTICE OF INTENT TO ISSUE
Atty Docket No. 00614-135001 : CERTIFICATE OF CORRECTION

This is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT" filed June 5, 2006. Pursuant to patentees' duty of good faith and candor to the Office, patentees disclose that the PTA in the above-identified patent appears to be longer than appropriate.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of two hundred thirty-six (236) days.

On May 2, 2006, this application matured into U.S. Patent No. 7,038,917, with a revised patent term adjustment of 302 days. Patentees give no basis for their assertion that this patent term adjustment is incorrect.

Nonetheless, a review of the application history confirms that patentees are correct that an additional period of reduction of 66 days is warranted. Pursuant to § 1.704(c)(10), a period of reduction of 66 days should have been entered for applicant delay in filing an Information Disclosure Statement (IDS) on November 22, 2005 after the mailing of a Notice of Allowance on November 10, 2005. The IDS was not expressly requested by the

examiner. The IDS did not include a § 1.704(d) statement. Accordingly, pursuant to 1.704(c)(10), a reduction of 66 days for the period beginning on November 22, 2005, the date of filing of the IDS and ending on January 26, 2006, the date the Office mailed a response, should have been entered.

In view thereof, the patent should have issued with a revised patent term adjustment of two hundred thirty-six (236) days.

As this letter was submitted as an advisement to the Office of an error in Patentees' favor, the Office will not assess the \$200.00 application fee under 37 CFR 1.705(b). 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 **TWO HUNDRED THIRTY-SIX (236)** 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

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,038,917 B2
DATED : May 2, 2006
INVENTOR(S) : Vinciarelli et al.

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (302) days

Delete the phrase "by 302" and insert – by 236 days--



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COMMISSIONER FOR PATENTS
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Paper No. 9

INTELLECTUAL PROPERTY DEPARTMENT
DEWITT ROSS & STEVENS S.C.
US BANK BUILDING
8000 EXCELSIOR DRIVE, SUITE 401
MADISON, WI 53717-1914

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APR 19 2004

OFFICE OF PETITIONS

In re Application of :
Robert L. Schade :
Application No. 10/331,042 :
Filed: December 28, 2002 :
Attorney Docket No. 38965000 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 18, 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 July 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 application became abandoned on October 10, 2003.

The Revocation of Power of Attorney and Change of Correspondence Address has been accepted and recorded.

The application file is being forwarded to Technology Center 3700, Art Unit 3723 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

Retta Williams

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



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TIMOTHY E. NAUMAN
FAY, SHARPE, FAGAN,
MINNICH & MCKEE, LLP
SEVENTH FLOOR
1100 SUPERIOR AVENUE
CLEVELAND OH 44114

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JUN 19 2008

OFFICE OF PETITIONS

In re Application of :
Iorio, et al. :
Application No. 10/331,046 : **DECISION**
Filed: 27 December, 2002 :
Attorney Docket No. RD 28695 GCRZ 2 :
00009 :

This is a decision on the petition, filed on 11 March, 2008, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

A proper showing as to non-receipt requires at the very minimum: a statement from practitioner stating that the Office action was not received by the practitioner; a statement from the practitioner attesting to the fact that a search of the file jacket and docket records for the application indicates that the Office action was not received with a copy of those docket records; and a brief statement of the calendaring process and a copy of the due-date (calendar) docket record(s) where the nonreceived Office action would have been scheduled for reply had it been received must be attached to and referenced in the practitioner's statement.

Alternatively, for a showing of timely and proper reply: a statement from practitioner stating that the reply was timely submitted by the practitioner; and copies of all papers submitted as and/or in support of that reply, with/and a copy of the date-stamped receipt card, Office FAX receipt acknowledgement (not simply Petitioner's FAX transmittal), or EFS receipt acknowledgment from the Office, along with practitioner's attestation as to the correctness/completeness of his/her records.

The showing(s) must include that of the person(s) with first-hand knowledge and an acknowledgment by the Petitioner that he/she has reviewed that information in compliance with his/her duty of candor to the Office.

BACKGROUND

The record reflects as follows:

This application was held abandoned for Petitioner's failure to reply timely and properly to a non-final Office action mailed on 4 June, 2007, with reply due absent extension of time on or before 4 September, 2007.

The application went abandoned after midnight 4 September, 2007.

The Office mailed the Notice of Abandonment on 9 January, 2008.

On 11 March, 2008, Petitioner filed the instant petition with, *inter alia*, and averred that a reply in the form of an amendment was filed timely and properly on 7 December, 2007, over a 3 December, 2007 certificate of mailing with a request and fee for extension of time, and Petitioner supports the averment with a copy of a date-stamped ("DEC 07 2007") receipt card and copies of the papers averred to have been filed.

Moreover, the Office record, as seen in IFW, supports Petitioner's averment.

The guidance in the Commentary at MPEP §711.03(c) sets forth the showing requirements for overcoming the presumptions herein.¹

¹ The guidance in the Commentary at MPEP §711.03(c) as to non-received Office actions and timely filed replies is as follows:

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner **>describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement

(See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," alternatively "A Reply Was Timely Filed"; see also: "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).)

should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.<

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 CFR 1.10(c) through 1.10(e) and 1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 CFR 1.10(c), (d), (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

37 CFR 1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 CFR 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

37 CFR 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 CFR 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 CFR 1.181(f).

Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 CFR 1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

Application No. 10/331,046

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation—since all owe to the Office the continuing duty to disclose.²

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.³ (See, also, the commentary at MPEP §711.03(c)(I)(A) and (B).)

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the showing requirements as discussed hereinabove.

CONCLUSION

The petition under 37 C.F.R. §1.181 is **granted**, and the 9 January, 2008, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center/AU 2879 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision—and it is noted that all inquiries with regard to that change in status should be directed to the Technology Center/AU where that change of status must be effected.

² See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

³ See: Delgar v. Schulver, 172 USPQ 513 (D.D.C. 1971).

Application No. 10/331,046

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. §1.2⁴) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).



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

⁴ The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

**CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110**

COPY MAILED

MAR 16 2009

In re Application of
Dara E. **WINTERS**
Application No. 10/331,052
Filed: December 27, 2002
Attorney Docket No. **2006967-0001**

OFFICE OF PETITIONS

DECISION ON PETITION TO
WITHDRAW FROM RECORD
UNDER 37 CFR 1.36(b)

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 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 Christopher J. McKenna 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 communications from the Office will be directed to the sole named signing inventor Dara E. Winters at the address below until otherwise properly notified by the applicant.

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

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

cc: **DARA E. WINTERS
P.O. BOX 2394
LIVINGSTON, NJ 07039**



Law Office of Michael J. Feigin
103 The Circle
(<http://PatentLawNY.com>)
Passaic NJ 07055

COPY MAILED
JAN 25 2010

In re Application of	:	
Dara E. Winters	:	DECISION ON PETITION
Application No. 10/331,052	:	TO WITHDRAW
Filed: December 27, 2002	:	FROM RECORD
Attorney Docket No. WIN001	:	

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 1, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

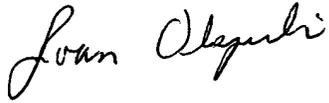
The request was signed by Michael J. Feigin on behalf of all attorneys of record who are associated with Customer No. 66793.

All attorneys/agents associated with Customer Number 66793 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the applicant at the address indicated below.

Currently, there is an outstanding Office action mailed October 16, 2009 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

A handwritten signature in cursive script that reads "Joan Olszewski".

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Dara E. Winters
P.O. Box 2394
Livingston, NJ 07039



Under the Patent, Trademark and Copyright 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	10/331,053
	Filing Date	December 26, 2002
	First Named Inventor	David W. MORRIS
	Art Unit	1642
	Examiner Name	Not Yet Assigned
	Attorney Docket Number	529452001100

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

Please withdraw me as attorney or agent for the above identified patent application, and

all the attorneys/agents of record.
 the attorneys/agents (with registration numbers) listed on the attached paper(s), or
 the attorneys/agents associated with Customer Number

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are:
 This request is being made at the request of Sagres Discovery, Inc.

APPROVED

**WILLIAM R. DIXON, JR.
SPECIAL PROGRAM EXAMINER**

4/14/05

CORRESPONDENCE ADDRESS

1. The correspondence address is NOT affected by this withdrawal.
 2. Change the correspondence address and direct all future correspondence to:

The address associated with Customer Number:

OR

Firm or Individual Name **Gwilym Attwell (Cozen O'Connor)**

Address: **1900 Market Street**

City: **Philadelphia** State: **Pennsylvania** Zip: **19103**

Country: _____ Telephone: _____ Fax: _____

Signature:

Name: **Gladys H. Menroy** Registration No. **32,430**
 Date: **March 21, 2005** Telephone No. **(650) 813-5711**

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.

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: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: March 21, 2005 Signature: (Martina Placid)



Paper No. 6

KUDIRKA & JOBSE, LLP
ONE STATE STREET
SUITE 1510
BOSTON MA 02109

COPY MAILED

AUG 12 2003

OFFICE OF PETITIONS

In re Application of :
Kerr et al. :
Application No. 10/331,057 :
Filed: 27 December, 2002 :
Atty Docket No. LOT9-2002-0004US2 :

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed on 2 June, 2003, to change the order of the names of the inventors.

The petition is granted.

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

1. Benard Kerr
2. Daniel M. Gruen
3. Paul B. Moody
4. Steven L. Rohall
5. Seymour Kellerman
6. John Patterson

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

There is no indication that petitioners herein was ever empowered to prosecute the instant application. If petitioners desire to receive future correspondence regarding this application, the appropriate power of attorney documentation must be mailed. A courtesy copy of this decision will be mailed to petitioners. However, all future correspondence will be directed to the

address of record until such time as appropriate instructions are received to the contrary. A power of attorney and change of correspondence address form is enclosed for petitioners' convenience.

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

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Corrected Filing Receipt
PTO/SB/81
Privacy Act Notification

cc: Stephen T. Keohane
IBM Corporation - Lotus Software
One Rogers Street
Cambridge MA 02142



Paper No. 10

KUDIRKA & JOBSE, LLP
ONE STATE STREET
SUITE 800
BOSTON, MA 02109

COPY MAILED

APR 19 2004

**OFFICE OF PETITIONS
ON PETITION**

In re Application of
Gruen et al.
Application No. 10/331,057
Filed: December 27, 2002
Attorney Docket No. LOT9-2002-0004US2

This is a decision on the petition filed March 29, 2004, to establish that page 2 of the specification was part of the originally filed application.

On December 27, 2002, the application was filed.

On March 11, 2004, the Office of Initial Patent Examination mailed a Notice advising applicants that page 2 of the specification was not present.

In response, the instant petition was filed alleging that page 2 of the specification was deposited on December 27, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of 40 pages of specification, not including claims and the abstract, on December 27, 2002.¹ Only 39 pages of the specification are present in the file. Petitioner has also submitted a copy of the missing documentation- page 2 of the specification.

Upon review of the record, page 2 of the specification deposited on December 27, 2002, has not been located. However, the evidence is convincing that the application papers deposited on December 27, 2002, included page 2, and that page 2 was subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of page 2 of the specification submitted with the petition will be used for examination purposes.

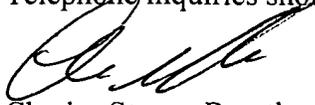
No petition fee is required. Therefore, the petition fee of \$130 will be credited back to petitioner's deposit account.

The Notice mailed March 11, 2004, 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 27, 2002, using the application papers filed on December 27, 2002, and the copy of page 2 of the specification filed on March 29, 2004.

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

RISSMAN JOBSE HENRICKS
& OLIVERIO, LLP
ONE STATE STREET
SUITE 800
BOSTON, MA 02109

COPY MAILED

SEP 20 2007

OFFICE OF PETITIONS

In re Application of :
Daniel M. GRUEN, et al :
Application No. 10/331,057 :
Filed: December 27, 2002 :
Attorney Docket No. L006-7079 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 26, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to Rissman, Jobse, Henricks & Oliverio, LLP has been revoked by the assignee of the patent application on June 27, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquires concerning this decision should be directed to Diane Goodwyn at 571-272-6735.


April Wise
Petitions Examiner
Office of Petitions

cc: DAVID A. DAGG, ESQ.
MCGUINNESS & MANARAS LLP
125 NAGAG PARK DRIVE
ACTON, MA 01720-3451



UNITED STATES PATENT AND TRADEMARK OFFICE

OCT 29 2003

MAILED

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 145
ALEXANDRIA, VA 22313-145
www.uspto.gov

OCT 29 2003

BRIAN ROFFE, ESQ
11 SUNRISE PLAZA, SUITE 303
VALLEY STREAM, NY 11580-6170

OFFICE OF THE DIRECTOR
TC 3600

Paper No. 9

In re application of
David S. Breed
Application No. 10/331,060
Filed: December 27, 2002
For: CRASH SENSOR ARRANGEMENT FOR
CONTROLLING DEPLOYMENT OF AN OCCUPANT
RESTRAINT DEVICE

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

This is a decision on the petition submitted on October 07, 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 a passport from the applicant showing that he is at least 65 years of age.

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

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

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



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

SNM/cps 10/28/03

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/17/07

Paper No.:

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/331061 Patent No: 7214853 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: Corrections to the Sequence Listing are documented
typographical errors that were corrected in the substitute
Sequence Listing with supporting remarks and Declaration of Metz
filed 9/21/06.

EM

Heather G. [Signature]
SPE

1638
Art Unit



**MAILED
FROM DIRECTORS OFFICE**

MAR 03 2006

TECHNOLOGY CENTER 3800

Ralph E. Jocke
Walker & Jocke
231 South Broadway
Medina, Ohio 44256

Paper No. 022106

In re Application of:	:	DECISION ON PETITION
James Meek et al.	:	UNDER 37 CFR 1.181
Application No. 10/331,065	:	
Filed: December 27, 2002	:	
Attorney Docket No.: D-1119 R7	:	
For: ATM CUSTOMER	:	
MARKETING SYSTEM	:	

This is in response to applicants' petition under 37 CFR 1.181 filed October 3, 2005 requesting withdrawal of the finality of the Office action mailed July 13, 2005 as being premature.

The Petition is **DENIED**.

Applicant alleges that the final rejection mailed July 13, 2005 is premature because the Final rejection is legally improper.

MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicants' amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

A review of the record reveals that the examiner issued a new ground of rejection based on 35 USC 102 citing Amundsen, WO 99/08214 in a Final rejection mailed on July 13, 2005 in response to an amendment filed by Applicants dated December 30, 2004. The examiner clearly indicated that this new ground of rejection was necessitated by Applicants' amendment. A review of Applicants' amendment filed December 30, 2004 shows that substantial amendments were made to all the independent claims in addition to amendments to other claims that would necessitate a new ground of rejection by the examiner. Applicants subsequently filed an After Final response dated June 17, 2005, arguing that the newly applied Amundsen reference was not prior art with respect to at least one of the limitations in the

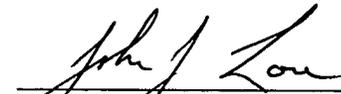
independent claims and that even if the Amundsen reference was prior art with respect to the claimed invention, Amundsen did not disclose all claim limitations and therefore, the Final rejection was premature. In response, the Examiner issued a new ground of rejection based on 35 USC 102 using a newly cited reference to Walker et al., U.S. Pat. No. 6,694,300 in a second Final Rejection mailed on July 13, 2005. The Walker reference was used to disclose a teaching reference with a superior date to Applicant's earliest priority date. The Examiner clearly indicated that this new ground of rejection was necessitated by Applicants' amendment.

Applicants argue that the second Final rejection is legally improper since Applicant did not amend the claims in the After Final response dated June 17, 2005. In addition, Applicants further argue that no information disclosure statement was filed in the June 17, 2005 After Final response so the new ground of rejection could not be based on information submitted in an information disclosure statement. Therefore, Applicants argue that the Examiner could not introduce new grounds of rejection and make the rejection a Final rejection of the claims in reply to the After Final response dated June 17, 2005.

It is noted that Applicants' argument is based on the After Final response dated June 17, 2005, which did not amend the claims, and not on Applicants' amendment dated December 30, 2004 where the claims were substantially amended. According to office practice, when determining whether new grounds of rejection in a second or subsequent rejection were necessitated by Applicants' amendment and ultimately whether the rejection of the claims is a Final rejection, the amendment in response to the action prior to the Final Rejection is the amendment under consideration. In the instant case, Applicants' amendment dated December 30, 2004 was filed in response to the non final office action mailed on October 13, 2004. In addition, Applicants' amendment dated December 30, 2004 substantially amended the claims. The Examiner introduced new grounds of rejection in the Final rejection mailed on July 13, 2005. The new grounds of rejection in the Final Rejection mailed on July 13, 2005 were necessitated by Applicants' amendment that was dated December 30, 2004. Therefore, the Final rejection is proper.

For the foregoing reasons, the finality of the office action dated July 13, 2005 is proper and accordingly the petition to withdraw the finality of the final office action mailed 12 August 2003 is denied.

Inquiries related to this decision may be directed to Supervisory Patent Examiner Alexander Kalinowski at (571) 272-6771.



John Love, Director
Patent Technology Center 3600
(571) 272-5250
FAX (571) 273-3600

OCT 03 2005



Ralph E. Jocke
Patent
&
Trademark Law

FACSIMILE TRANSMISSION COVER SHEET

TRANSMITTING: 6 PAGES (INCLUDING THIS PAGE)
NAME: Director of Technology Center 3600
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450
FAX NUMBER: (571) 273-8300
DATE: October 3, 2005
SENDER: Ralph E. Jocke, Esq.
FAX NUMBER: (330) 722-6446
PHONE NUMBER: (330) 721-0000
COMMENTS: Petition for entry in Application No. 10/330,877 (Docket No. D-1119 R6).
Please refer to the following.

If you do not receive all pages, contact the sender IMMEDIATELY at the number listed below.

The information contained in this facsimile message is confidential and intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited and will be considered a tortious interference in our confidential business relationships. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the address below via the U.S. Postal Service. Thank you.

CERTIFICATION UNDER 37 C.F.R. SECTIONS 1.8(a) AND 1.6(d)

TRANSMISSION

I hereby certify that, on the date shown below, this correspondence is being transmitted by facsimile to the Patent and Trademark Office at (571) 273-8300.

Date: 10/3/2005

Ralph E. Jocke

330 - 721 - 0000
MEDINA

330 - 225 - 1669
CLEVELAND

330 - 722 - 6446
FACSIMILE

rej@walkrandjocke.com
E-MAIL

231 South Broadway. Medina. Ohio U.S.A. 44256-2601

RECEIVED
CENTRAL FAX CENTER

OCT 03 2005

October 3, 2005

Director of Technology Center 3600
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Attn: Art Unit 3627
Patent Examiner Michael Cuff

Re: Application Serial No.: 10/330,877
Confirmation No.: 1366
Applicants: James Meek, et al.
Title: ATM Customer Marketing System
Docket No.: D-1119 R6

Sir:

Please find enclosed a Petition pursuant to 37 C.F.R. § 1.181 requesting withdrawal of a premature final rejection for filing in the application.

No fee is deemed required. However, the Commissioner is authorized to charge any necessary fee associated with the filing of the Petition, and any other fee due, to Deposit Account 09-0428.

Very truly yours,



Ralph E. Jocke
Reg. No. 31,029

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OCT 03 2005

003

D-1119 R6

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)	
James Meek, et al.)	
)	
Application No.: 10/330,877)	Art Unit 3627
)	
Confirmation No.: 1366)	
)	
Filed: December 27, 2002)	Patent Examiner
)	Michael Cuff
)	
Title: ATM Customer Marketing System)	

Director of Technology Center 3600
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

Kindly enter the following petition without prejudice, which is being submitted within two months of the Office Action dated September 21, 2005:

PETITION TO WITHDRAWAL PREMATURE FINAL REJECTION**Overview of dates and papers associated with this application**

1. 12/13/04 Mail Non-Final Rejection.
2. 12/30/04 Response filed.
3. 05/18/05 Mail 1st Final Rejection.
Claims 56 and 82-83 rejected as anticipated by Amundsen.
4. 06/17/05 AF Response filed, with no claim amendments.
5. 07/13/05 Mail new Final Rejection with new rejections. 06/17/05 Response entered.
Vacated the previous rejection based on *Amundsen*.
Claims 56 and 82-83 newly rejected as anticipated by *Walker*.
6. 09/01/05 AF Response filed, with a Request to withdraw premature final rejection.
7. 09/21/05 Mail Advisory Action. Applicants' 09/01/05 Request denied.

This petition is the result of the Office denying Applicants' request for withdrawal of the pending premature final rejection. Applicants petition for the finality of the Office Action dated July 13, 2005 to be withdrawn due to the premature final rejection therein.

Applicants' Response filed June 17, 2005 did not contain any amendment, but rather pointed out the errors in the prior Office Action dated May 18, 2005. In response thereto, the Office (on July 13, 2005) substituted a Walker-based new ground of rejection (against claims 56 and 82-83) for the previous Amundsen-based rejection. The Office then made this Walker-based new ground of rejection Final. Applicants assert, based on the laws, rules, and patent examining

procedures, that the Final rejection dated July 13, 2005 is legally improper. The Office can't make a new ground of rejection final (July 13, 2005) in response to an entered non amending Response (June 17, 2005).

MPEP 706.07(a) states:

"Under present practice, second or any subsequent actions on the merits shall be final, *except where the examiner introduces a new ground of rejection* that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p)."

Applicants respectfully submit that since their Response filed June 17, 2005 did not contain any amendment, the new ground of rejection in the next Office Action (dated July 13, 2005) could not have been necessitated by amendment. Furthermore, since no information disclosure statement was in the Response filed June 17, 2005, the new ground of rejection could not have been based on information submitted in an information disclosure statement. The record shows that the conditions did not meet the legal criteria for the Office to apply a Final rejection on July 13, 2005. Therefore, the Final rejection is *prima facie* premature.

Furthermore, because of the finality of the rejection in the Office Action dated July 13, 2005, Applicants have not been given an opportunity in accordance with 37 C.F.R. 1.111 to properly rebut the Office's newly imposed ground of rejection. Again, Applicants respectfully submit that the finality of the Office Action dated July 13, 2005 is premature and should be withdrawn.

For reasons previously discussed, the Walker reference must first be applied in a new non final rejection in order to be legally proper. This situation has not yet occurred. As the Walker-based rejection is not legally pending, claims 56 and 82-83 stand allowed.

Applicants petition that the pending final rejection (set forth in the Office Action dated July 13, 2005) be withdrawn because it is premature. Applicants respectfully submit that their claims 1 and 48-86 set forth on September 1, 2005 are the currently pending claims.

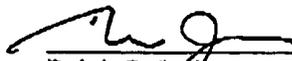
If necessary, then further reconsideration is requested

If a further request for reconsideration is required, then Applicants respectfully request further reconsideration by the Examiner.

Conclusion

Appellants' petition should be granted for the reasons presented herein. The undersigned is willing to discuss any aspect of the Application by telephone at the Office's convenience.

Respectfully submitted,



Ralph E. Jocke Reg. No. 31,029
WALKER & JOCKE
231 South Broadway
Medina, Ohio 44256
(330) 721-0000



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

JUN -9 2004

In re Application of :
Michael J. Swanson :
Serial No. 10/331,076 : DECISION ON PETITION
Filed: December 27, 2002 : TO WITHDRAW AS ATTORNEY
For: PADDED LEATHER PITCHING:
TARGET :

By papers filed on February 20, 2004, counsel has petitioned to withdraw as attorney of record in this application.

The petition is GRANTED.

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

Michael J. Swanson
1311 Southwest 328th Court
Federal Way, WA 98023

E. Rollins-Cross, Director
Technology Center 3700

Donald W. Meeker
750 La Playa, Suite 512
San Francisco, CA 94121



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United States Patent and Trademark Office
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MAILED

Donald W. Meeker
Patent Agent
#512
750 La Playa
San Francisco, CA 94121

JUN 28 2005
Director's Office
Group 3700

Paper No. 5

In re Application of
GARVER, LEE A.
Application No.: 10/331,077
Filed: December 27, 2002

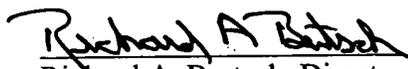
:
:
DECISION
:
:

This application is before the Director of Technology Center 3700 for reconsideration of the Notice of Abandonment mailed April 29, 2004 for failure to respond to the Office Action mailed October 22, 2003.

A review of the file indicates that a response was timely filed on January 20, 2004.

In view of the above, the Notice of Abandonment mailed April 29, 2004 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the Technical Support Staff to return the application to an active status and for entry of the amendment. The application will then be forwarded to the examiner for appropriate action.

Summary: Holding of Abandonment Withdrawn.


Richard A. Bertsch, Director
Technology Center 3700



UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEP 10 2003

Paper No. 7

In re Application of	:	
Frederick N. Blesecker et al.	:	
Serial No. 10/331,084	:	DECISION ON PETITION
Filed: December 27, 2002	:	TO MAKE SPECIAL
For: CHILD RESISTANT CAP	:	

Applicant's petition, filed August 4, 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

Akin Gump Strauss Hauer & Feld LLP
One Commerce Square
2005 Market Street, Suite 2200
Philadelphia, PA 19103-7013



17-1772
Pet. Sec.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT	Application Number	10/331,145 ✓
	Filing Dat	December 27, 2002
	First Named Inventor	Kerins, et al.
	Group Art Unit	1731 ✓
	Examiner Name	Not yet assigned
	Attorney Docket Number	11302-1350 (44040-270838)

To: Commissioner for Patents
 PO Box 1450
 Alexandria, VA 22313-1450

Approved JUN 29 2004

I hereby apply to withdraw as attorney or agent for the above identified application.
 The reasons for this request are: Conflict of Interest

JM Stone
 Jacqueline M. Stone, Director
 Technology Center 1700

I hereby apply on behalf of all attorneys at Kilpatrick Stockton LLP, to withdraw as attorney or agent for the above-identified patent application. I am authorized to act on behalf of all attorneys at Kilpatrick Stockton LLP associated with Customer Numbers 23370 and 23594 and 29843.

- The correspondence address is NOT affected by this withdrawal.
- Change the correspondence address and direct all future correspondence to:
CORRESPONDENCE ADDRESS

Customer Number → Place Customer Number Bar Code Label here

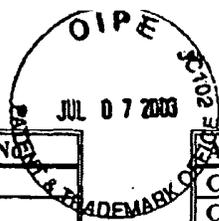
OR

<input checked="" type="checkbox"/> Firm or Individual Name	Andrew D. Stover		
Address	Brinks, Hofer, Gilson & Lione		
Address	NBC Tower - Suite 3600, 455 Cityfront Plaza Drive		
City	Chicago	State	IL
		ZIP	60611-5599
Country	USA		
Telephone	312-321-4200	Fax	312-321-4299

- This request is made on behalf of myself and
- all the attorneys/agents of record,
 - the attorneys/agents (with registration numbers) listed on the attached paper(s), or
 - the attorneys/agents associated with Customer Number _____
- This request is enclosed in triplicate (including any attachments).

Name	Robert E. Richards - Reg. No. 29405
Signature	<i>[Handwritten Signature]</i>
Date	7-3-03

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.



Attorney and/or Agent	Registration No.
Roger T. Frost	22,176
Anthony B. Askew	24,154
John M. Harrington	25,592
Robert E. Richards	29,105
John S. Pratt	29,476
James L. Ewing, IV	30,630
Stephen M. Schaetzel	31,418
James Dean Johnson	31,771
Charles W. Calkins	31,814
Larry A. Roberts	31,871
Jamie L. Greene	32,467
George T. Marcou	33,014
Dean W. Russell	33,452
Charles T. Simmons	35,359
Eleanor M. Musick	35,623
Bruce D. Gray	35,799
Geoff L. Sutcliffe	36,348
Mitchell G. Stockwell	39,389
Jeffery B. Arnold	39,540
Brenda Ozaki Holmes	40,339
Michael J. Turton	40,852
Yoncha L. Kundupoglu	41,130
J. Steven Gardner	41,772
Theodore M. Green	41,801
Thomas A. Corrado	42,439
John K. McDonald	42,860
Sima Singadia Kulkarni	43,732

Attorney and/or Agent	Registration No.
Camilla Camp Williams	43,992
Christopher J. Chan	44,070
John William Ball, Jr.	44,433
Dawn-Marie Bey	44,442
Tiep H. Nguyen	44,465
Michael J. Dimino	44,657
Lisa C. Pavento	44,669
Kristin L. Johnson	44,807
J. Jason Link	44,874
Goran P. Stojkovich	45,841
Vaibhav P. Kadaba	45,865
J. Michael Boggs	46,563
Tywanda L. Harris	46,758
Kristin D. Mallatt	46,895
Cynthia B. Rothschild	47,040
John C. Alemanni	47,384
Geoffrey K. Gavin	47,591
Janina Malone	47,768
Aleta A. Mills	47,794
Eric Saphir	48,499
Todd W. Galinski	51,713
William K. McGreevey	52,012
Elena S. Polovnikova	52,130
Samuel B. Rollins	52,180
David E. Wigley	52,362
Jane M. Terry	53,682



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MAIL

APR 25 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

DECISION
ON PETITION

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

In re Application of:
Georg Wagner, et. al.
Application No. 10/331,178
Filed: December 27, 2002
For: **RECEIVER**

This is a response to the petition, filed October 12, 2004, which is treated as a Petition to Withdraw Notice of Abandonment pursuant to 37 C.F.R. §1.181. No fee is required.

This application became abandoned for failure to timely file a response to the non-final Office action mailed November 17, 2003, which set a shortened statutory period of three (3) months to reply. A Notice of Abandonment was mailed September 21, 2004.

Petitioner alleges to have timely filed a response to the Office action. To support this position, Petitioner has included with the instant petition a copy of a response bearing a proper certificate of transmission having a date of October 5, 2004.

37 C.F.R. § 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence,
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate, and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Given that petitioner is the one who apparently signed the certificate of mailing and petitioner states that they submitted a response on February 12, 2004, then petitioner has met the requirements above. Accordingly, the holding of abandonment is withdrawn.

The petition is **Granted**.

The application will be forwarded to the Technology Center's technical support staff for entry of the response submitted with the petition. From there, the file will be forwarded to the examiner for consideration in due course.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications



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

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NOV 01 2006
OFFICE OF PETITIONS

In re Application of :
Wagner et al. : ON PETITION
Application No. 10/331,178 :
Filed: 27 December, 2002 :
Atty Docket No. 8052/89015 :

This is a decision on the petition filed on 15 August, 2006, to withdraw the holding of abandonment in the above-identified application, or in the alternative, under 37 CFR 1.137(b)¹ to revive the application.

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 require 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 was held abandoned for failure to timely reply to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on 26 October, 2005, which set a one (1) month shortened period for reply. Notice of Abandonment was mailed on 18 May, 2006.

Petitioners assert that a reply was timely submitted, via facsimile, on 7 November, 2005. In support, petitioners have provided a copy of an amendment bearing a certificate of facsimile transmission stating that the response was sent by facsimile to 571-273-7278. A copy of the sending unit report was also provided.

Any petition to withdraw the holding of abandonment based on a Certificate of Transmission by facsimile must include the following requirements:

- (1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and
- (2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the **original** response on the date indicated on the Certificate of Transmission (see 37 CFR 1.8 and MPEP 512).

The showing of record is that is that petitioners did not use the correct facsimile number. Specifically, the Official Gazette notice published on 12 July, 2005, states that as of 15 July, 2005, the U.S. Patent and Trademark Office requires most patent related correspondence submitted by facsimile to be faxed to the Central FAX number of 571-273-8300.² As the reply to the Notice mailed on 26 October, 2005, does not fall within one of the exceptions provided for in the notice, replies must be faxed to the above-referenced number.

While it is noted that the sending unit report appears to indicate that the facsimile which petitioners attempted to send on 7 November, 2005, was properly sent, the report cannot serve as evidence that the response was timely sent because it does not show that the fax was sent to the specified number for receipt of facsimile transmissions in the USPTO.

² See 1296 O.G. 76 (July 12, 2005).

As such, the showing of record is that the reply which petitioners attempted to file on 7 November, 2005, was not filed because an improper facsimile number was used. As such, the application was properly held abandoned, and the holding of abandonment will not be withdrawn.

The petition to revive is **granted**.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

The petition fee will be charged to counsel's deposit account, as authorized in the petition.

The application will be forwarded to Technology Center Art Unit 2615 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions



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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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BRINKS HOFER GILSON & LIONE
PO BOX 10395
CHICAGO IL 60610

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JUN 24 2004

OFFICE OF PETITIONS

In re Application :
Tsai et al. :
Application No. 10/331,197 : DECISION ON APPLICATION
Filed: December 27, 2002 : FOR PATENT TERM ADJUSTMENT
Atty Docket No. 659/140 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," filed May 18, 2004, which is being treated under 37 C.F.R. 1.705(b). Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to twelve (12) 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 **twelve (12)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 10, 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 May 18, 2004, applicants timely¹ submitted an application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is twelve (12) days.

¹ PALM records indicate that applicant paid the issue fee with the filing of the application for patent term adjustment on May 18, 2004.

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

The Office initially determined a patent term adjustment of zero (0) days based on an adjustment for PTO delay of twelve (12) days pursuant to 35 U.S.C. 154(b) (1) (A) (i) and 37 C.F.R. § 1.703(a) (1), reduced by applicant's delay of seventy-one (71) days, pursuant to 35 U.S.C. 154(b) (2) (C) (iii) and 37 C.F.R. § 1.704(b). The PTO delay of 12 days has been reviewed and found to be correct. The applicant delay of 71 days is at issue.

The adjustment of 71 days for applicant's delay has been found to be incorrect. The application file reveals that applicant timely responded to the April 14, 2003 Notice to File Missing Parts on May 19, 2003. Furthermore, the response was a complete reply to the Notice. Thus, the Office should not have entered the date that the instant application was complete as September 23, 2003, or assessed applicant a delay of 71 days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **twelve days** (12 days of PTO delay and 0 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. 23-1925, 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 (703) 305-0272.

*Karin Ferriter
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



UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 10395
CHICAGO IL 60610

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OCT 22 2004

In re Application of
Daniel Tsai et al
Application No. 10/331,197
Filed: December 27, 2002
Attorney Docket No. 659/1480

OFFICE OF PETITIONS
ON PETITION

This is a decision on the petition, filed October 19, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 18, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

The examiner of Technology Center AU 1774 will consider the request for continued examination under 37 CFR 1.114.

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

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



UNITED STATES 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

DICKINSON WRIGHT PLLC
1901 L. STREET NW
SUITE 800
WASHINGTON DC 20036

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JUN 19 2006

OFFICE OF PETITIONS

In re Application of :
Keith David Wallaker :
Application No. 10/331,210 : DECISION ON PETITION
Filed: December 30, 2002 : UNDER 37 C.F.R. §1.137(b)
Attorney Docket Number: :
28627.00002 :
Title: MOUNTING APPARATUS :

This is a decision on the petition, pursuant to 37 C.F.R. §1.137(b)¹, to revive the above-identified application, filed on May 3, 2006.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed February 2, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue or publication fees². Accordingly, the above-identified application became abandoned on May 3, 2006.

¹ A grantable petition pursuant to 37 C.F.R. 1.137(b) must be accompanied by:

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

² See MPEP §710.02(e).

With the present petition, Petitioner has submitted the petition fee, the publication fee, the issue fee, and the proper statement of unintentional delay.

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

After the mailing of this decision, the Office of Patent Publications will be notified of the same so that the present application can be processed into a patent.

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



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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

7+

Paper No.: _____

DATE : December 14, 2006

TO SPE OF : ART UNIT 1723

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/331213 Patent No.: 7,083,697 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: _____

John P. [Signature]

SPE

1723

Art Unit



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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TECHNOLOGY CENTER 2600

MILLER JOHNSON SNELL CUMMISKEY, PLC
800 CALDER PLAZA BUILDING
250 MONROE AVENUE, N.W.
GRAND RAPIDS, MI 49503-2250

In re Application of

Scott M. Alazraki

Application No. 10/331,218

Filed: December 30, 2002

For: **AUTOMATIC FREQUENCY CONTROL
(AFC) SYSTEM AND METHOD USING AN
ADAPTIVE THRESHOLD TO IMPROVE
ACCURACY OF THE DIRECT CURRENT
(DC) COMPONENT CALCULATION FOR A
RECEIVED SIGNAL**

DECISION ON REQUEST TO
WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on December 17, 2004.

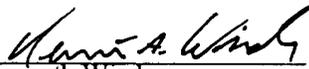
A grantable request to withdraw as attorney/agent of record must do the following:

- (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.

Attorneys/Agents associated with Customer Number 20576 are withdrawn.

Accordingly, the request is **GRANTED**.

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


Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc: MOTOROLA, INC.
1300 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG, IL 60196



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JUL 25 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MILLER JOHNSON SNELL CUMMISKEY, PLC
800 CALDER PLAZA BUILDING
250 MONROE AVENUE, N.W.
GRAND RAPIDS, MI 49503-2250
In re Application of

Vance H. Peterson et al.

Application No. 10/331,219

Filed: December 30, 2002

For: **DYNAMIC POWER SHARING ZERO
INTERMEDIATE FREQUENCY (ZIF) MIXER
AND METHOD OF FORMING SAME**

DECISION ON REQUEST TO
WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on December 17, 2004.

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.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED**.

All attorneys/agents listed in Customer No. 20576 withdrawal have been withdrawn.

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


Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
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(571) 272-2986

cc: MOTOROLA, INC.
8000 WEST SUNRISE BLVD.
ROOM 1610
PLANTATION, FL 33322-9947



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JUL 25 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

DECISION ON REQUEST TO
WITHDRAW FROM RECORD

MILLER JOHNSON SNELL CUMMISKEY, PLC
800 CALDER PLAZA BUILDING
250 MONROE AVENUE, N.W.
GRAND RAPIDS, MI 49503-2250

In re Application of
Ariel L. Galan
Application No. 10/331,220
Filed: December 30, 2002

For: APPARATUS AND METHOD FOR A
RADIO FREQUENCY (RF) RECEIVER FRONT
END PRE-SELECTOR TUNING FOR
IMPROVING THE REDUCTION IN
INTERMODULATION DISTORTION (IMD)

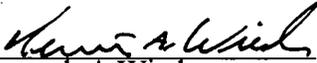
This is a decision on the request for withdrawal as agent of record filed on December 17, 2004. A grantable request to withdraw as attorney/agent of record must:

- (1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
- (2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
- (3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
- (4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

Attorneys/agents associated in Customer No. 20576 to withdraw are withdrawn.

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


Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

Cc: MOTOROLA, INC.
8000 WEST SUNRISE BOULEVARD
ROOM 1610
PLANTATION, FLORIDA 33322-9947



PHILIP M. WEISS, ESQ.
WEISS & WEISS
300 OLD COUNTRY ROAD, SUITE 251
MINEOLA NY 11501

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MAY 01 2006

OFFICE OF PETITIONS

In re Application of :
Wendy L. Arent et al :
Application No. 10/331,298 : ON PETITION
Filed: December 30, 2002 :
Attorney Docket No. P/73-20 :

This is a decision on the petition, filed May 1, 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 7, 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 file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

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

The examiner of Technology Center AU 1773 will consider the request for continued examination under 37 CFR 1.114.



Karen Creasy
Petitions Examiner
Office of Petitions

cc:

PHILIP M. WEISS
WEISS & WEISS
310 OLD COUNTRY RD., STE. 201
GARDEN CITY, NY 11530



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 : May 1, 2006
TO : Director, Office of Patent Publication
FROM : Office of the Deputy Commissioner
for Patent Examination Policy
SUBJECT : withdrawal from Issue of

Applicant(s) : Wendy L. Arent et al
Application No. : 10/331,298
Filed : December 30, 2002

The above-identified application has been assigned Patent No. 7,037,566 and an issue date of May 2, 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 May 2, 2006:

"All reference to Patent No. 7,037,566 to Wendy L. Arent et al of Wisconsin for STATIC OF COF DIFFERENTIAL POLY FILM REAM WRAP appearing in the Official Gazette of May 2, 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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MR. S.H. DWORETSKY
AT&T CORP., ROOM 2A-207
ONE AT&T WAY
BEDMINISTER NJ 07921

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MAY 20 2005

OFFICE OF PETITIONS

In re Application of :
Barin Geoffry Haskell et al :
Application No. 10/331,344 : DECISION GRANTING PETITION
Filed: December 31, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 2685/5990 :

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of January 28, 2004, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 2613.

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



Paper No. 4

HEAD, JOHNSON & KACHIGIAN
228 W. 17TH PLACE
TULSA, OK 74119

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APR 08 2003

OFFICE OF PETITIONS

In re Application of :
William Mark Adams :
Application No. 10/331,365 :
Filed: December 30, 2002 :
Attorney Docket No. BAI525-915/02839 :

ON PETITION

This is a decision on the "Petition," filed on March 4, 2003, requesting that the above-identified application be accorded a filing date of December 30, 2002, including Figure 8A as described in the specification.

The application was filed on December 30, 2002. However, on February 10, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice To File Missing Parts Of Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, but Figure 8A as described in the specification appears to have been omitted.

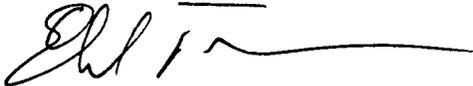
In response, on March 4, 2003, the instant petition and a copy of Figure 8A as described in the specification were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of twelve (12) sheets of drawings on December 30, 2002. The twelve (12) sheets of drawings contain Figures 1-11. A review of the application file indicates the presence of only eleven (11) sheets of drawings with the sheet containing Figure 8A missing. It is assumed that missing sheet of drawings containing Figure 8A was misplaced by the Office.

In view of the above, the petition is granted.

The \$130.00 petition fee submitted on March 4, 2003 will be refunded to deposit account no. 08-1500.

This application will be returned to OIPE for further processing with a filing date of December 30, 2002, using the copy of Figure 8A as described in the specification, supplied on March 4, 2003.

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



FLOYD A. GONZALEZ
IBM CORPORATION
2455 SOUTH ROAD, P386
POUGHKEEPSIE, NY 12601

Paper No. 5

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JUN 16 2003

OFFICE OF PETITIONS

In re Application of :
Goldrian et al. :
Application No. 10/331,369 : ON PETITION
Filed: December 30, 2002 :
Attorney Docket No. DE920010020US1 :

This decision concerns the May 27, 2003 petition under 37 CFR 1.47(a).¹

The petition is **DISMISSED**.

Three inventors are named in this application which, upon filing, included a declaration that was not executed. A Notice to File Missing Parts of Nonprovisional Application was mailed on February 21, 2003, giving Applicants an extendable 2-month period to submit a properly executed oath/declaration. The instant petition then followed, stating that one of the joint-inventors, Bernd Leppla ("Leppla"), has refused to sign the declaration, and requesting that the signing inventors be allowed to file this application on behalf of themselves and Leppla. The petition is accompanied by a declaration signed by 2 inventors ("5/27/03 Declaration").

The available inventors may file the application on behalf of themselves as well as Leppla, provided that a *bona fide* attempt has been made to present to Leppla, for review and signature, a **copy of the entire application (specification including claims; drawings)**,² and that the latter refuses to join in this application.³

¹ Including a request for a 1-month extension of time and the authorization to charge the \$110 extension-of-time fee to Deposit Account No. 09-0463.

² MPEP section 409.03(d) (Rev.1, Feb. 2003) REFUSAL TO JOIN (A refusal . . . to sign . . . when the inventor[’s representative] has not been presented with the application papers does not itself suggest that [he] is refusing to join in the application unless it is clear that [he] understands exactly what he is being asked to sign and refuses to accept the application papers.); also citing *In re Gray*, 115 U.S.P.Q. 80 (Comm’r Pat. 1956) (It is reasonable to require that the inventor[’s representative] be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that [he] is apprised of the application to which the oath/declaration is directed.).

³ See MPEP section 409.03(d) (Rev. 1, Feb. 2003) (Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted . . . When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts.).

To show that Leppla has refused to join in this application despite such a *bona fide* attempt, the petition must include, *inter alia*, a statement of facts, signed by a person with **firsthand knowledge** of the facts recited therein, concerning the circumstances of the presentation of the application papers to Leppla at his last known address,⁴ and his subsequent refusal.⁵

The instant petition is accompanied by a statement of facts by 1 of the 2 available inventors, Norbert Schumacher ("Schumacher") ("Schumacher Statement"), stating that Schumacher mailed Leppla the application declaration and the assignment document, and that Leppla not only returned the forms unsigned, but verbally indicated to Schumacher his refusal to sign the documents. However, there is no evidence that, as required by 37 CFR 1.47, a copy of the entire application (specification including claims; drawings) had been provided to Leppla prior to concluding that he refused to join in this application. The petition is thus dismissed. The 5/27/03 Declaration is not accepted.

To prevent abandonment of this application,⁶ one of the following must be submitted within **TWO MONTHS** of the mailing date of this decision:⁷

- (1) an oath/declaration properly signed by all inventors, including Leppla;⁸
- or
- (2) a renewed §1.47(a) petition (no fee) that includes proper statement(s)⁹ of **facts** establishing that a *bona fide* attempt was made to present to Leppla, at his last known address, a copy of the entire application (specification including claims; drawings), and that Leppla nevertheless refused to sign the declaration.

The renewed §1.47(a) petition should be addressed as follows:

by mail/by hand: Commissioner for Patents, USPTO
Office of Petitions
Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

⁴ 37 CFR 1.47(a); MPEP section 409.03(e) (Rev. 1, Feb. 2003).

⁵ See supra note 3.

⁶ See 37 CFR 1.53(f) (If an application which has been accorded a filing date . . . does not include an oath or declaration . . . pursuant to §1.63 . . . , applicant will be notified and given a period of time within which to . . . file an oath or declaration . . . to avoid abandonment).

⁷ Unless proper extension(s) of time under 37 CFR 1.136(a) is (are) obtained.

⁸ A declaration listing the invention and all of the inventors, but signed only by Leppla, would be sufficient for supplementing the 5/27/03 Declaration.

⁹ **Statements based on hearsay will not be considered.**

by fax: (703) 308-6916
Attn: Office of Petitions

Finally, as authorized in the petition, the \$130 petition fee and the \$130 surcharge for failure to submit an acceptable oath/declaration upon filing of the application have been charged to Deposit Account No. 09-0463.

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



RC Tang
Petitions Attorney
Office of Petitions



Paper No. 7

FLOYD A. GONZALEZ
IBM CORPORATION
2455 SOUTH ROAD, P386
POUGHKEEPSIE, NY 12601

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FEB 13 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Goldrian et al. :
Application No. 10/331,369 :
Filed: December 30, 2002 :
Attorney Docket No. DE920010020US1 :

This decision concerns the August 4, 2003 "Submission of Declaration" which is being treated as a renewed petition under 37 CFR 1.47(a).

The renewed petition is **DISMISSED as moot.**

A "Declaration and Power of Attorney for Patent Application" enclosed with the May 27, 2003 petition under 37 CFR 1.47(a) lacked the signature of one of the named inventors, Bernd Leppla. The available inventors asserted in that petition that Bernd Leppla refused to sign the declaration.

The May 27, 2003 petition was dismissed on June 16, 2003 for lacking sufficient showing that an entire copy of the application (specification including claims; drawings) had been sent to Bernd Leppla before concluding that the latter refused to join in this application.

The instant submission encloses a supplemental declaration signed by all of the named inventors, including Bernd Leppla, rendering a §1.47(a) petition moot and subject to dismissal.

The application is now complete.

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

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

RC Tang
Petitions Attorney
Office of Petitions



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800 CALDER PLAZA BUILDING
250 MONROE AVE NW
GRAND RAPIDS MI 49503-2250

MAIL

JUL 27 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of:
Cutcher, Jeffrey Lee
Application No. 10/331373
Filed: December 30, 2002
For: **SYSTEM AND METHOD FOR
SELECTIVELY UTILIZING AN
ATTENUATION DEVICE IN A TWO-WAY
RADIO RECEIVER BASED ON SQUELCH
DETECT AND RADIO SIGNAL STRENGTH
INDICATION (RSSI)**

DECISION ON REQUEST TO
WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as attorney/agent and change of correspondence address filed on December 17, 2004.

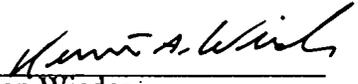
A grantable request to withdraw as attorney/agent of record must:

- (1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
- (2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
- (3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
- (4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED**.

All attorneys/agents associated with Customer Number 20576 have been withdrawn.

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


Ken Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-7288

Cc: MOTOROLA, INC.
8000 WEST SUNRISE BOULEVARD
RM 1610
PLANTATION FL 33322-9947



UNITED STATES 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

MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO IL 60606

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OCT 03 2005

OFFICE OF PETITIONS

In re Application of	:	
Dwight R. Smith	:	
Application No. 10/331,379	:	DECISION ON PETITION
Filed: December 30, 2002	:	UNDER 37 C.F.R. §1.137(b)
Attorney Docket Number: 29505/PF01794NA	:	
Title: THRESHOLD-BASED SERVICE	:	
NOTIFICATION SYSTEM AND METHOD	:	

This is a decision on the petition, pursuant to 37 C.F.R. §1.137(b)¹, to revive the above-identified application, filed on June 8, 2005.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed January 21, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue or publication fees². Accordingly, the above-identified application became abandoned on April 22, 2005. A Notice of Abandonment was mailed on May 25, 2005.

With the present petition, Petitioner has submitted the petition fee, the issue fee, the publication fee, and the proper statement of unintentional delay.

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

¹ A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

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

² See MPEP §710.02(e).

After this decision is mailed, the application will be forwarded to the Office of Patent Publication for processing into a patent.

The phone number for the Office of Patent Publication is (703) 308-6789. 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 delay³. 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 Shanowski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: Motorola, Inc.
Mobile Devices
Intellectual Property Department
600 North US Highway 45, RM AS437
Libertyville, IL 60048

³ See 37 CFR 10.18(b); cf. Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).



UNITED STATES PATENT AND TRADEMARK OFFICE

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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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Mail Date: 04/21/2010

Applicant	: Jackson Demond	: DECISION ON REQUEST FOR
Patent Number	: 7625389	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/331,380	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/30/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **884** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)
(Large Entity)

Docket No.
LOT920020044US1 (005)

In Re Application Of: **Li-Te Cheng**

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
10/331,398	12/30/02	Nguyen, Minh Dieu T	46321	2137	4225

Invention: **SECURE RESOURCE DISTRIBUTION THROUGH ENCRYPTED POINTERS**

COMMISSIONER FOR PATENTS:

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a response to the Office Action of 10/03/2006 above-identified application.
Date

The requested extension is as follows (check time period desired):

One month Two months Three months Four months Five months

from: January 3, 2007 until: February 3, 2006
Date *Date*

The fee for the extension of time is **\$120** and 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. **122158**
- If an additional extension of time is required, please consider this a petition therefor and charge any additional fees which may be required to Deposit Account No. **122158**
- 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.


Signature

Steven M. Greenberg, Esq.
Reg. No. 44,725
CUSTOMER NUMBER 46321

Dated: February 5, 2007

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on

(Date)

Signature of Person Mailing Correspondence

Typed or Printed Name of Person Mailing Correspondence

cc:



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

LEON I EDELSON
LAW OFFICE OF LEON I EDELSON
35 CODY LANE
DEERFIELD IL 60015

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JAN 05 2009

OFFICE OF PETITIONS

In re Patent No. 6,792,653
Issue Date: September 21, 2004 :
Application No. 10/331,409 : DECISION ON PETITION
Filed: December 30, 2002 :
Patentee: Protz :

This is a decision on the petition under 37 CFR 1.378(c), filed November 26, 2008, to accept the unintentionally delayed payment of the maintenance fee for the above-identified patent.

The petition under 37 CFR 1.378(c) is **GRANTED**.

The above-identified patent issued September 21, 2004. Accordingly, the first maintenance fee could have been paid during the period from September 21, 2007 through March 21, 2008 without surcharge, or with a late payment surcharge during the period from March 22, 2008 through September 21, 2008. No maintenance fee having been received, the patent expired on September 22, 2008.

Since the instant petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c). The maintenance fee in this case is accepted and the above-identified patent is hereby reinstated as of the mail date of this decision..

Receipt of the \$490 maintenance fee and \$1640 surcharge is acknowledged.

The patented file is being returned to Files Repository.

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

A handwritten signature in cursive script, appearing to read "Cliff Congo".

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Leon I Edelson
2275 Half Day Rd
Suite 122
Bannockburn IL 60015



Wayne L. Tang
MAYER, BROWN & PLATT
P.O. Box 2828
Chicago, IL 60690-2828

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AUG 29 2007

OFFICE OF PETITIONS

In re Application of

GINGRICH, Mark A. et al.
Application No. 10/331,417
Filed: December 30, 2002
Attorney Docket No. 02063298

:
:
:
:
:
:
:

**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. § 1.136(b), filed August 07, 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 Joseph A. Mahoney on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

J. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **MARK A. GINGRICH**
4820 UPTON AVENUE SOUTH
MINNEAPOLIS, MN 55410

cc: **T. LANE MACALESTER**
SENIOR VICE PRESIDENT AND GENERAL COUNSEL
RXHUB LLC
380 ST. PETER STREET
SUITE 530
ST. PAUL, MN 55102



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
10/331,417	12/30/2002	Mark A. Gingrich	02063298

Wayne L. Tang
 MAYER, BROWN & PLATT
 P.O. Box 2828
 Chicago, IL 60690-2828

CONFIRMATION NO. 2667



OC000000025563291

Date Mailed: 08/27/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/07/2007.

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

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
 FORMER ATTORNEY/AGENT COPY

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)
6729883	2004-05-04	10331430	2002-12-30	

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 |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 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

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.

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	/Joanne M. Denison/	Date (YYYY-MM-DD)	2008-10-15
Name	Joanne M. Denison	Registration Number	34150

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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P.O. Box 1450
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In re Patent No. 6729883 :
Issue Date: May 4,2004 :
Application No. 10331430 :DECISION GRANTING PETITION
Filed: December 30,2002 :UNDER 37 CFR 1.378(c)
Attorney Docket No. :

This is a decision on the electronic petition, filed October 15,2008 ,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 October 15,2008 . 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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FROM DIRECTORS OFFICE

DEC 08-2005

TECHNOLOGY CENTER 3600

Charles E. Baxley, Esq.
90 John Street
Third Floor
New York, NY 10038

In re Application of
Yu-Cheng Lin
Application No. 10/331,445
Filed: December 27, 2002
For: CONNECTOR

:
:
: 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 October 27, 2004.

The petition is **GRANTED**.

A review of the file record shows that an Office Action was mailed to applicant on March 3, 2004, wherein a three-month shortened statutory period for response was set. Since no timely response to the Office Action was received and the six-month statutory time period for reply expired, the application was abandoned and a notice to that effect was mailed on September 9, 2004.

Petitioner states that a timely response was filed on September 3, 2004 to the Office Action.

The original amendment filed by the applicant on September 3, 2004 has been found by the Office and entered into the file. The original amendment is considered timely since it included a Petition for Extension of Time and the appropriate fee for the requested extension of time. However, an Office Action was mailed on December 12, 2004 in response to the applicant's amendment filed on September 3, 2004. Since no timely response to the December 12, 2004 Office Action was received and the six-month statutory time period for reply had expired, the application was abandoned and a notice to that effect was mailed on June 24, 2005. The notice of abandonment mailed on June 24, 2005 is maintained and the **current status** of the application is **abandoned**.



Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6619

RAR/bkg: 12/7/05



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Commissioner for Patents
 United States Patent and Trademark Office
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 Alexandria, VA 22313-1450
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DEC - 7 2004

DAVID A. EINHORN, ESQ.
 ANDERSON, KILL & OLICK, P.C.
 1251 AVENUE OF THE AMERICAS
 NEW YORK, NY 10020

In re Application of :
 Tae-Ho Park et al :
 Serial No.: 10/331,457 : PETITION DECISION
 Filed: December 27, 2002 :
 Attorney Docket No.: DE-1432 :

This is in response to the petition under 37 CFR 1.144, filed September 10, 2004, 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 27, 2002, and contained claims 1-2. In a first Office action, mailed May 21, 2003, the examiner required restriction between the inventions claimed, as follows:

- Group I – Claims 1-2, drawn to naphthyridines where W is N;
- Group II – Claims 1-2, drawn to quinolines where W is CY or CH;
- Group III – Claims 1-2, drawn to benzoxazines where W is C and W and R¹ form a COCH₂CH(CH₃) ring closure;
- Group IV - Claims 1-2, drawn to benzothiazines where W is C and W and R¹ form a CSCH₂CH(CH₃) ring closure;
- Group V - Claims 1-2, drawn to instances where W is C and W and R¹ form a CCH₂CH₂CH(CH₃) ring closure.

The examiner reasoned that the inventions were distinct as they were directed to different fused ring structures.

Applicants replied on June 24, 2003, electing Group II with traverse and arguing that the ring structures on which the restriction is based are conventional structures known in the art and that all of the compounds could/should be classified/examined together and cited several references to support the position.

The examiner mailed a new Office action to applicants on August 14, 2003, maintaining the restriction requirement for essentially the same reasons as previously set forth. The examiner rejected claims 1-2 under 35 U.S.C. 102(a), (b), (e) or (f), as anticipated by, and under 35 U.S.C. 103(a) as obvious over, Laborde et al.

Applicants replied on November 14, 2003, amending claims 1 and 2, and again traversing the restriction requirement and arguing the rejections of record.

The examiner mailed a Final Office action to applicants on March 11, 2004, maintaining the restriction requirement and the rejection under 35 U.S.C. 103(a) for reasons of record.

Applicants filed this petition on September 10, 2004, concurrently with a response to the Final Office action which response has not yet been addressed by the examiner.

DISCUSSION

Applicants argue that the restriction requirement should be withdrawn and the claims examined in their entirety based on the fact that the quinolone carboxylic acid structure is well known in the art as shown in US Patents 5,059,597; 5,770,597; and 5,990,122. It is clear from the disclosures of these three references that the quinolone carboxylic acid structure with variables A (corresponds to W in this application) and R¹ are identical to the structure of this application including the bridge structures between A (or W) and R¹. This shows an equivalence between the naphthyridine, quinoline and benzoxazine and benzothiazine structures. While the examiner is correct in stating that these structures are different and may be differently classified, it is also clear that the state of the prior art shows that they have a reasonable equivalence and searching for one structure likely will lead to art showing all structures. The examiner's restriction requirement and subsequent election has effectively reduced the examiner's search to one subclass, yet references showing all of the structures claimed are found in that subclass. As further evidence, any claim of burden on the examiner is dispelled by applicants' prior art citation references any of which could be combined with the Laborde et al reference to reject all aspects of the claims, if necessary. It is noted that Laborde et al has essentially the same structures disclosed as the three references cited by applicants. In view of the state of the art and the suggested equivalence shown by applicants of the core structure, maintaining the restriction requirement for examination purposes based on burden on the examiner and different classification is not warranted.

DECISION

The petition is **GRANTED**. The restriction requirement is withdrawn for the above reasons.

The application will be forwarded to the examiner for consideration of applicants' reply to the Final Office action commensurate with the above decision.

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


Bruce M. Kisliuk
Director, Technology Center 1600



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DIW sep-06

RABIN & BERDO, P.C.
1101 14TH STREET, NW
SUITE 500
WASHINGTON DC 20005

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SEP 05 2006

OFFICE OF PETITIONS

In re Application of :
Hidekazu Kikuchi : DECISION ON PETITION
Application No. 10/331,480 : TO WITHDRAW HOLDING OF
Filed: 31 December, 2002 : ABANDONMENT
Atty Dcket No. OHG 122D1 :

This is a decision on the petition, filed on 20 June, 2006, which is treated as a petition to withdraw the holding of abandonment in the above-identified application.

The application was held abandoned for failure to properly to the final Office action mailed on 24 August, 2005, which set a three (3) month shortened statutory period for reply. On 18 October, 2005, an amendment after final rejection was filed. The amendment did not place the application in condition for allowance, however, and an Advisory Action was mailed on 26 October, 2005. Notice of Abandonment was mailed on 13 June, 2006.

Petitioners assert that a proper response was in fact timely filed in the form of a Request for Continued Examination (RCE) filed on 22 November, 2005. In support of the petition, petitioners submitted a copy of a date-stamped post card receipt acknowledging receipt of an RCE and a Credit Card payment form in the United States Patent and Trademark Office (Office) on 22 November, 2005. Additionally, petitioners have submitted a copy of the RCE Request and credit card payment form with the present petition.

Petitioners' response to the Advisory Action is not of record in the file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the reply to the Advisory Action was received in the Office but was not matched with the application file.

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

The petition is GRANTED.

The application file will be referred to the Technology Center's technical support staff for entry of the response. Thereafter, the application file will be referred 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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

McDermott, Will & Emery
600 13th Street, N.W.
Washington, D.C. 20005-3096

MAILED

AUG 1 2003

**OFFICE OF DIRECTOR
GROUP**

In re Application of :
Tomohiko Kanie et al. :
Application No.: 10/331,493 :
Filing Date: December 31, 2002 :
Attorney Docket No.: 50212-453 :

**DECISION ON PETITION
TO MAKE SPECIAL**

This is a decision on the petition filed March 11, 2003 requesting that the above identified application be granted special status and examined out of turn under the accelerated examining procedures set forth in MPEP § 708.02 VIII.

The petition has been considered and found to comply with all the requirements set forth in MPEP § 708.02 VIII.

The petition is GRANTED.

The application is being forwarded to the examiner for the preparation of an Office action. After the Office action is mailed, any further prosecution should be in compliance with the accelerated examining procedures set forth in MPEP § 708.02 VIII.

Edward Westin

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



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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APR 19 2004

OFFICE OF PETITIONS

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

In re Application of :
Thomas J. Meyer et al :
Application No. 10/331,495 : ON PETITION
Filed: December 30, 2002 :
Attorney Docket No. TI-32559 :

This is a decision on the petition, filed April 12, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 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 (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2873 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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



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

Date : April 19, 2004
TO : Director, Office of Patent Publication
FROM : Office of the Deputy Commissioner
for Patent Examination Policy
SUBJECT : Withdrawal from Issue of
Applicant(s) : Thomas J. Meyer et al
Application No. : 10/331,495
Filed : December 30, 2002

The above-identified application has been assigned Patent No. 6,724,518 and an issue date of April 20, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of April 20, 2004:

"All reference to Patent No. 6,724,518 to Thomas J. Meyer et al of Texas for SPLIT BEAM MICROMIRROR appearing in the Official Gazette of April 20, 2004 should be deleted since no patent was granted."

Karen Creasy

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

cc: Geraldine Dozier, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara Greene, Crystal Park 3-908



UNITED STATES PATENT AND TRADEMARK OFFICE

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GENENTECH, INC.
1 DNA WAY
SOUTH SAN FRANCISCO CA 94080

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MAY 23 2006

OFFICE OF PETITIONS

In re Application of :
Frantz, et al. :
Application No. 10/331,496 : **ON PETITION**
Filed: December 30, 2002 :
Attorney Docket No. P5014R1 :
For: COMPOSITIONS AND METHODS :
FOR THE DIAGNOSIS AND TREATMENT :
OF TUMOR :

This is a decision on the petition, filed January 25, 2006 (certificate of mailing date January 23, 2006), under 37 CFR 1.137(b) to revive the above-identified application.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the July 14, 2005 non-final Office action. No response being received and no extensions of time being obtained, this application became abandoned on October 15, 2005. A Notice of Abandonment was mailed on January 24, 2006.

Applicants have submitted an amendment in reply to the July 14, 2005 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the July 14, 2005 non-final Office action, and the petition fee.

As this utility application was filed after June 8, 1995, no terminal disclaimer is required for the Rule 137(b) revival petition. The \$130.00 terminal disclaimer fee will be refunded to deposit account. No.07-0630.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 1641 for consideration of the amendment filed on January 25, 2006 (certificate of mailing date January 23, 2006).

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

A handwritten signature in black ink that reads "Shirene Willis Brantley". The signature is written in a cursive style with a large, prominent initial 'S'.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions



Paper No. 4

MARSHALL, GERSTEIN & BORUN LLP
6300 SEARS TOWER
233 S. WACKER DRIVE
CHICAGO, IL 60606

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AUG 15 2003

In re Application of
Park
Application No. 10/331,514
Filed: March 5, 2003
Attorney Docket No.: 29925/39029

: **OFFICE OF PETITIONS**

: ON PETITION

This is a decision on the petition, filed March 5, 2003, to accord the above-identified application a filing date of December 30, 2002 or alternatively to accord the application a filing date as of the date of submission of Figure 2g. This petition is being treated under 37 CFR 1.53(e) (2).

The application was submitted December 30, 2002. On February 14, 2003, the Office of Initial Patent Examination mailed a Notice of Omitted Items in a Nonprovisional Application ("Notice"). The Notice indicated that the application had been accorded a filing date but that Figure 2g 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)).

In response to the Notice, petitioner has submitted the omitted item along with a preliminary amendment requesting entry of the omitted Figure 2g. Petitioner has requested that the application maintain a filing date of December 30, 2002, or, in the alternative, requests that the application be accorded a filing date as of the date of submission of the omitted item.

The transmittal letter accompanying the instant application on filing indicated that Figures 1a to 2f were enclosed. The Office acknowledges receipt of Figures 1a to 2f. Petitioner, however, has presented no evidence to establish prior receipt of the Figure 2g. Petitioner, therefore, has effectively elected item (2) set forth above.

In view of the above, the petition to accord the application a filing date of December 30, 2002 is hereby **DISMISSED**.

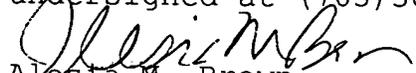
Application No. 10/331,514

2

The petition to accord the application a filing date as of the date of submission of omitted Figure 2g is hereby GRANTED.

This application is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 5, 2003, the date of submission of Figure 2g.

Telephone inquires related to this matter may be directed to the undersigned at (703)305-0310.



Alesia M. Brown
Senior Petitions Attorney
Office of Petitions



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MOTOROLA INC
600 NORTH US HIGHWAY 45/W4 - 39Q
LIBERTYVILLE, IL 60048-5343

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JUN 02 2008

In re Application of
ZHAO, et al.
Application No. 10/331,515
Filed: December 30, 2002
Attorney Docket No. **CS2123ORL**

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:
:

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed May 31, 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 Notice to Notice of Non-Compliant Amendment, mailed February 23, 2007. The Notice set a period for reply of one (1) month 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 March 24, 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/election; (2) the petition fee of \$1500; and (3) an adequate statement of unintentional delay.

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Ms. Valerie M. Davis appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf she acts. If Ms. Davis desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The application is being referred to Technology Center 2624 for processing of the amendment.

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

Brian W. Brown
Petitions Examiner
Office of Petitions

Cc: **VALERIE M. DAVIS**
1301 E. ALGONQUIN ROAD
LAW DEPARTMENT
SCHAUMBURG, IL 60196



Paper No. 9

DICKSTEIN SHAPIRO MORIN & OSHINSKY
2101 L STREET NW
WASHINGTON, DC 20037-1526

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OCT 06 2003

OFFICE OF PETITIONS

In re Application of
Julio Reinecke et al
Application No. 10/331,583
Filed: December 31, 2002
Attorney Docket No. G5005.0001/P001-A

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 1647.

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



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Paper No. 7

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

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SEP 10 2004

OFFICE OF PETITIONS

In re Application of :
Axelsson, et al. :
Application No. 10/331,601 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No. 19200-000012/US :

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed July 23, 2004, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply in a timely manner to the 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 on April 12, 2003.

Petitioner contends a response to the Notice was timely submitted on April 11, 2003. A review of the application file indicates a response in the form of a executed declaration and \$65.00 late fee was, in fact, submitted on April 11, 2003, as these items are found in the application file and date-stamped as received by the USPTO on April 11, 2003.

As such, the petition shall be treated as a petition under 37 CFR 1.181 and the holding of abandonment is withdrawn.

The \$130.00 petition fee, submitted July 23, 2004, will be refunded to deposit account no. 08-0750.

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 (703)306-9200.

A handwritten signature in black ink, appearing to read 'EJ Tannouse', with a long horizontal flourish extending to the right.

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



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

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AUG 15 2005
OFFICE OF PETITIONS
ON PETITION

In re Application of :
Efraim Rotem :
Application No. 10/331,610 :
Filed: December 31, 2002 :
Attorney Docket No.: P-5541-US :

This is a decision on the petition, filed August 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 July 22, 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

It is noted that the address given on the petition slightly differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03.

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 2857 for further processing of the request for continued examination under 37 CFR 1.114.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions

¹The 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
P.O. Box 1450
Alexandria, VA 22313-1450
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Date : August 15, 2005
TO : Director, Office of Patent Publication
FROM : Office of the Deputy Commissioner
for Patent Examination Policy
SUBJECT : Withdrawal from Issue of

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AUG 15 2005
OFFICE OF PETITIONS

Applicant(s) : Efraim Rotem
Application No. : 10/331,610
Filed : December 31, 2002

The above-identified application has been assigned Patent No. 6,931,360 and an issue date of August 16, 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 16, 2005:

"All reference to Patent No. 6,931,360 to EFRAIM ROTEM of ISRAEL for METHOD AND APPARATUS FOR CONTROLLING MULTIPLE RESOURCES USING THERMAL RELATED PARAMETERS appearing in the Official Gazette of August 16, 2005, should be deleted since no patent was granted."

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

cc: Paul Harrison, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K. Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910



WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

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JUN 20 2007

OFFICE OF PETITIONS

In re Application of :
Simon Atkinson, et al. :
Application No. 10/331,622 : DECISION GRANTING PETITION
Filed: December 30, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. W00583.70001 SJH :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 15, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 23, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-3204.

This application is being referred to Technology Center AU 2611 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 8

Brian K. Seidleck
McDermott, Will & Emery
600 13th Street, N.W.
Washington, DC 20005-3096

MAILED

~~F~~ ~~AUG~~ ~~1~~ 2003

**OFFICE OF DIRECTOR
GROUP**

In re Application of
Makoto Katayama, et al.
Application No. 10/331,660
Filed: December 31, 2002
Attorney Docket No. 50212-454

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:
:
:

**DECISION ON PETITION
TO MAKE SPECIAL**

This is a decision on the petition under 37 C.F.R. § 1.102, filed April 23, 2003, to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item VIII: Accelerated Examination.

The petition complies with M.P.E.P. § 708.02, Item VIII: Accelerated Examination, in that it is accompanied by (a) a petition fee of \$130.00, (b) a statement that all claims are directed a single invention and an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, or professional searchers, etc., the field of search was also provided, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter distinguishes over these references.

For the above stated reasons, the petition is GRANTED.

The application file is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the

Application No. 10/331,660
On Petition

application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.


Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components



LEVISOHN, BERGER & LANGSAM, LLP
805 THIRD AVENUE, 19TH FLOOR
NEW YORK, NY 10022

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MAY 26 2004

In re Application of :
Stephen Shapiro, et al. :
Application No. 10/331,677 :
Filed: December 27, 2002 :
Attorney Docket No. 547.124 :

OFFICE OF PETITIONS
DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed May 14, 2004, under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on December 23, 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 September 2, 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 referred to Technology Center Art Unit 3749 for examination in due course.



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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request



UNITED STATES PATENT AND TRADEMARK OFFICE

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March 18, 2008

Kent J. Tobin
TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 9411-3834

Patent No.: 7,218,023 B2
Application No.: 10/331,698
Inventor(s): Jun Hirose, et al.
Issued: May 15, 2007
Title: SPINDLE MOTOR

Re: Request for Certificate of Correction

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

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

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

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

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

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

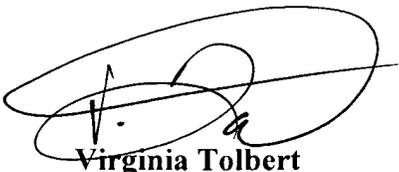
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

By fax: (571) 273-0025
 ATTN: Office of Petitions

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



Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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SEP 25 2008

In re Patent No. 7,218,023

Issue Date: May 15, 2007

Application No. 10/331,698

Filed: December 30, 2002

Attorney Docket No. 25779K-018300US

ON PETITION

This is a decision on the request under 37 CFR 3.81(b)¹ filed May 19, 2008, to correct the assignee data on the front page of the above-identified patent by way of Certificate of Correction.

The request is **granted**.

The Certificate of Correction filed December 13, 2007, is noted.

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.



MICHAEL A. BERNADICOU
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES CA 90025

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OCT 20 2004

In re Application of :
Eric C. Hannah et al. :
Application No. 10/331,700 :
Filed: December 28, 2002 :
Attorney Docket No. P11343 :

OFFICE OF PETITIONS
ON PETITION

This is a decision on the petition filed September 17, 2004, 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 on January 25, 2004, for failure to file a timely response to a Restriction Requirement mailed December 24, 2003, which set a one (1) month shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed December 24, 2004.

The petition fee in the amount of \$1,330.00 has been applied to the finance records for the instant patent application.

This application file and the response to the Restriction Requirement filed September 17, 2004 will be forwarded to Technology Center 2818 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

¹Effective 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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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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MAIL

Paper No. 3

JUN 13 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

WITHROW & TERRANOVA, P.L.L.C.
P.O. BOX 1287
CARY NC 27512

In re Application of:
YOAKUM, JOHN H.
Application No. 10/331,706
Filed: December 30, 2002
For: PRESENCE ENABLED QUEUE
MANAGEMENT

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed March 13, 2003 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:

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

The petition meets all of the requirements listed above.

Accordingly, the petition is **GRANTED**.

The application is being forwarded to the examiner for immediate action.

Ruedi J. E...

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
(703) 305-4710



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

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DEC 07 2004

OFFICE OF PETITIONS

In re Application of
Creagan
Application No. 10/331,708
Filed: December 30, 2002
Attorney Docket No. 17851

ON PETITION

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 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 1732 will consider the request for continued examination under 37 CFR 1.114.

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

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



Sean Kaufhold
P.O. Box 89626
Sioux Falls SD 57109

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JAN 24 2006

OFFICE OF PETITIONS

In re Application of	:	
Jennifer Armstrong	:	
Application No. 10/331,734	:	DECISION ON PETITION
Filed: December 31, 2002	:	
Attorney Docket No. NWK 1504	:	

This is a decision on the petition under 37 CFR 1.181, filed January 10, 2006, to withdraw the holding of abandonment for the above-identified application.

On July 14, 2005, the Office mailed a Notice Allowability, which set a three-month statutory period to submit corrected drawings. In the apparent absence of a timely filed response, the Office mailed a Notice of Abandonment on December 30, 2005.

In the present petition, petitioner asserts that he timely filed a response in the form of a copy of the Notice of Allowance and Fee(s) Due, payment of the issue fee, 2 sheets of corrected drawings, and a certificate of mailing dated October 5, 2005. In support of his assertion, petitioner submits a copy of a check in the amount of \$700.00 for the payment of the issue fee, 2 sheets of corrected drawings (Figures 1, 2 and 3),¹ a copy of a completed Part B- Fee(s) Transmittal, containing a certificate of mailing dated October 5, 2005, and a copy of a signed Certificate of Mailing under 37 CFR 1.8 (Form PTO/SB/92) dated October 5, 2005.

¹ The Office notes that petitioner submitted the copy of the two sheets of corrected drawings by facsimile transmission. The USPTO has *sua sponte* waived the prohibition in 37 CFR 1.6(d)(4) against the submission of drawings by facsimile when drawings are submitted with the issue fee. See 1254 OG 91 (January 15, 2002). Petitioner showed that the original drawings were filed timely with the payment of the issue fee but were subsequently misplaced in the USPTO. Therefore, the drawings are acceptable.

Pursuant to 37 CFR 1.8:

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

(c) The Office may require additional evidence to determine if the correspondence was timely filed.

After reviewing the record and the papers submitted on petition, the response is considered timely filed on October 5, 2005. Additionally, the Draftsperson has approved the copy of the original drawings submitted on petition, as indicated in the enclosed Notice of Draftsperson's Patent Drawing Review. Accordingly, the petition is **granted**. The Notice of Abandonment is hereby withdrawn. The application is restored to pending status in view of the fact that a response was timely submitted on October 5, 2005.

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

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the issuance of a patent should be directed to the Office of Patent Publication Customer Service at (571) 272-4200.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Notice of Draftsperson's Patent Drawing Review (1 page)



Paper No. 090304

MPRRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

SEP 15 2004

In re Application of: :
JOHN WOOD :
Serial No.: 10/331,748 :
Filed: December 30, 2002 :
Attorney Docket No.: 559652000111 :

DECISION ON REQUEST TO WITHDRAW
FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed July 19, 2004.

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

The request meets all the above stated requirements. The request was signed by Alan S. Hodes, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

All future communications from the Office will be directed to David C. Bohrer, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.


Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: DAVID C. BOHRER
DECHERT LLP
975 PAGE MILL ROAD
PALO ALTO, CA 94304-1013



SYNNESTVEDT & LECHNER LLP
2600 ARAMARK TOWER
1101 MARKET STREET
PHILADELPHIA PA 19107-2950

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FEB 06 2008

**OFFICE OF PETITIONS
ON PETITION**

In re Patent No. 6,902,742 :
Issued: June 7, 2005 :
Application No. 10/331,754 :
Filed: December 30, 2002 :
Attorney Docket No. P26,522-D USA :

This is a decision on the petition filed March 27, 2006 under 37 CFR 1.182, requesting a withdrawal of a previously filed Terminal Disclaimer.

The petition is **GRANTED** to the extent indicated below.

Petitioner argues that since two different dates beyond which the terminal part of the instant patent has been disclaimed is indicated and thus causes ambiguity to the public, the October 28, 2003 Terminal Disclaimer should be withdrawn and replaced with one that properly notes the expiration date.

A review of the record indicates that a terminal disclaimer was filed under 35 U.S.C. § 253 and 37 CFR 1.321(c) on October 28, 2003(certificate of mail date). The terminal disclaimer was relied upon by petitioner to overcome a rejection on the grounds of obviousness-type double patenting involving the claims of commonly owned U.S. Patent 6,288,398 and Patent Application Nos. 10/354,483 and 09/850,425. The terminal disclaimer was executed by Registered Patent Attorney Joshua Slavit on behalf of the assignee, and specified in part:

Elan Corporation, plc hereby disclaims the terminal part of the statutory term of any patent granted on the present application which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156 and 173 of the '398 Patent, said expiration date being November 2, 2018, and it is agreed that any patent so granted on the present application shall be enforceable only for, and dureing, such period that the legal title to said patent shall be the same as the legal title to the '398 Patent, this agreement to run with any patent granted on the present application and to be binding upon the grantee, its successors or assigns.

While the Terminal Disclaimer was filed and accepted, at the time the present patent was published, the USPTO failed to include the Terminal Disclaimer on the face of the Patent. Thus, while of record, neither the terminal disclaimer nor the alleged ambiguity actually exists on the patent.

At the outset, unfortunately, once a patent issues, the USPTO will not remove the effect of a recorded terminal disclaimer in an issued patent. See Manual of Patent Examining Procedure (MPEP) § 1490(B); Bayer AG v. Carlsbad Technology Inc., 64 USPQ2d 1045, 1048-49 (Fed. Cir. 2002).

What is here controlling is that petitioner seeks to correct an issued patent. The statutory authority for amendment or correction of an issued patent is found in title 35, chapter 25. The instant petition does not involve correction of a mistake by the Patent and Trademark Office (Office) (35 USC § 254) or correction of the named inventor (35 USC § 256). In addition, while the instant petition involves a disclaimer, 35 USC § 253 merely authorizes the filing and recording of disclaimers; it does not authorize the withdrawal of a terminal disclaimer. Bayer, supra.

Unless a "mistake" is provided for in 37 CFR 1.322, 1.323, or 1.324, or affords legal grounds for reissue or for reexamination, such "mistake" will not be corrected subsequent to the issuance of an application as a patent. See 37 CFR 1.325: MPEP 1490. As further noted in MPEP 1490, the mechanisms to correct a patent (i.e., certificate of correction (35 USC § 255), reissue (35 USC § 251 (notwithstanding the filing of this reissue application and the instant petition reissue) and reexamination (35 USC § 305)) are not available to withdraw or otherwise nullify the effect of a recorded terminal disclaimer.

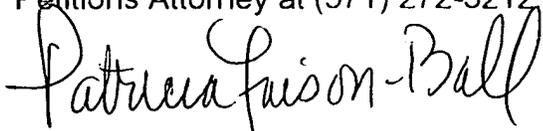
However, in order to resolve the ambiguity in the aforementioned terminal disclaimer filed on March 27, 1997 created by the changes to 35 U.S.C. § 154(c)(1) contained in Public Law 103-465, the clarification requested by petitioner (i.e. that the term of the above identified patent expires on November 1, 2019, the expiration date of the '398 patent filed November 1, 1999 is not necessary. It is noted that, the correction of the terminal disclaimer date indicated on patent due to the changes to 35 U.S.C. § 154 contained in Public Law 103-465, § 532, 108 Stat. 4809 (1994), is, if such correction is appropriate, by way of 35 U.S.C. § 254 and 37 CFR 1.322. However, in light of possible future changes to the patent statutes, the requested clarification, as it also recites a specific expiration date, might tend to replicate the problem already encountered herein. As such, the requested correction will not be made.

Nevertheless, to make the patent consistent with the record wherein the terminal disclaimer filed October 28, 2003 was acknowledged, the present matter is being referred to the Certificates of Correction Branch for issuance of a Certificate of

Correction to now indicate that:¹

--[*] Note: This patent is subject to a terminal disclaimer.--

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

A handwritten signature in cursive script that reads "Patricia Faison-Ball". The signature is written in black ink and is positioned above the printed name.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

¹See Bayer AG v. Carlsbad Tech. Inc., 298 F.3d 1377, 64 USPQ2d 1045 (Fed Cir. 2002).

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 6,902,742 B2

DATED : June 7, 2005

INVENTOR(S) : John G. Devane

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: This patent is subject to a terminal disclaimer.



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

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Paper No. 7

MCDERMOTT, WILL & EMERY
600 13th Street, N.W.
Washington, DC 20005-3096

~~AUG 1 2003~~

OFFICE OF DIRECTOR
GROUP

In re Application of:
SUNAGA *et al.*
Application No. 10/331,756
Filed: December 31, 2002
Attorney Docket No. 50212-451

:
:
:
:
:

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed February 05, 2003, to make the above-identified application special.

The petition is being treated as a request that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item VIII: Accelerated Examination.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P., Section 708.02, Item VIII, must be accompanied by (a) the fee set forth in 37 C.F.R. § 1.17(h), (b) a statement that all claims are directed a single invention or an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, professional searcher, etc., and a listing of the field of search by class and subclass, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter is distinguishable over these references.

The petition satisfies the above requirements. Accordingly, the petition is **GRANTED**.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

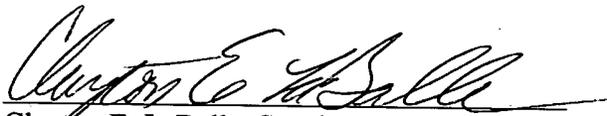
If the examiner finds any interfering application for the same subject matter, he/she should consider

such application simultaneously with this application and should state in the official letter of such application that she/he is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (703) 308-0519.



Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components



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DW Jan-07

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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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JAN 08 2007

OFFICE OF PETITIONS

In re Application of :
Ghiya et al. : DECISION ON PETITION TO
Application No. 10/331,782 : WITHDRAW HOLDING OF
Filed: 12/31/2002 : ABANDONMENT
Attorney Docket No. :
042390.P15244 :

This is a decision on the petition, filed on 10 October, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the non-final Office action mailed on 27 February, 2006, which set a three (3) month period for reply. Notice of Abandonment was mailed on 21 September, 2006.

Petitioner asserts that a response to the non-final Office action was timely filed. In support, petitioners have supplied a copy of an amendment and a one (1) month extension of time, each containing a Certificate of Mailing dated 27 June, 2006.

A review of the official file reveals that on 30 June, 2006, an amendment and one (1) month extension of time were received. Additionally, the amendment and the extension of time each contain a valid certificate of mailing dated 27 June, 2006.

It is noted that the first page of the amendment inadvertently miscaptions the application number as "09/655,971". Under current Office procedure, a response that has an incorrect serial number is handled in accordance with M.P.E.P. § 508.03. If a paper having an incorrect serial number contains sufficient

information to identify the correct application and was timely received at the Office, the holding of abandonment will be withdrawn. In reviewing the papers which were submitted, it is concluded that there was sufficient information thereon to associate the papers with the present application file.

The papers filed on 30 June, 2006, have been located in the Office. A copy of the papers has been placed in the file of the subject application.

As petitioner has provided convincing evidence that a reply to the Office communication was transmitted to the USPTO on 27 June, 2006, the showing of record is that a response was timely filed, and there is no abandonment in fact. Any inconvenience caused to applicant is regretted.

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

The application is being referred to the Technology Center Art Unit 2193 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-145

JUL 26 2004

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JUL 26 2004

OFFICE OF THE DIRECTOR
TC 3600

Ladas & Parry
224 South Michigan Avenue, Suite 1200
Chicago, IL 60604

In re application of

Makoto Murakami :
Application No. 10/331,784 :
Filed: December 26, 2002 :
For: VEHICLE SALES METHOD, SERVER :
DEVICE, AND AREA INFORMATION :
DISPLAYING AND CHARGING SYSTEM FOR A CAR

**DECISION ON REQUEST
FOR WITHDRAWAL OF
ATTORNEY**

This is a decision on the request filed on May 18, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

- A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
- B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and
- C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date

of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition A) above.

As to condition A), the attorneys associated with Customer No. 26530 do not correspond with those named in the Power of Attorney in the declaration thereby creating confusion as to who is withdrawing.



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

SNM/vdb: 7/20/04



UNITED STATES PATENT AND TRADEMARK OFFICE

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FANN-MKE C/O
FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

MAILED

MAR 29 2010

OFFICE OF PETITIONS

In re Application of	:
Raines et al.	:
Patent Number: 7,593,889	: ON REQUEST
Issue Date: 09/22/2009	: FOR RECONSIDERATION OF
Application No. 10/331811	: PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 12/30/2002	: and
Attorney Docket Number: 037607-0158	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 15, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by two thousand twenty-one (2021) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by two thousand twenty-one (2021) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **two thousand twenty-one (2021) days**.

Patent No. 7,593,889

Application No. 10/331811

Page 2

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

A handwritten signature in black ink, appearing to read "Anthony Knight". The signature is fluid and cursive, with a prominent loop at the end.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,593,889 B2

DATED : September 22, 2009

INVENTOR(S) : Raines 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 1400 days.

Delete the phrase "by 1400 days" and insert – by 2021 days--



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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MITCHELL P. NOVICK, ESQ.
LAW OFFICES OF MITCHELL P. NOVICK
66 PARK STREET
MONTCLAIR NJ 07042

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AUG 07 2006

OFFICE OF PETITIONS

In re Application of :
Christopher P. Scott :
Application No. 10/331,844 : DECISION GRANTING PETITION
Filed: December 31, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 1657-1174 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 8, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Corrected Application Papers mailed February 14, 2003, which set a period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 15, 2003.

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

This matter is being referred to the Office of Initial Patent Examination.

Karen Creasy
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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**INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR
& ZAFMAN, LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040**

**MAILED
FEB 02 2009
OFFICE OF PETITIONS**

In re Application of :
Tariq SHUREIH :
Application No. 10/331,857 : **DECISION ON PETITION**
Filed: December 30, 2002 :
Attorney Docket No. 42P14903 :

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

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file a proper reply to the Notice of Non-Compliant Amendment mailed, July 7, 2008, which set a period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 8, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a reply in the form of an amendment, (2) the petition fee of \$1620; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center 2434 for appropriate action by the Examiner in the normal course of business on the reply received January 6, 2009.


Thurman Page
Petitions Examiner
Office of Petitions



KONRAD RAYNES VICTOR & MANN LLP
Suite 210
315 S. Beverly Drive
Beverly Hills CA 90212

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OFFICE OF PETITIONS

In re Application of	:	
Katibah et al.	:	
Application No. 10/331911	:	DECISION ON APPLICATION
Filing or 371(c) Date: 12/30/2002	:	FOR PATENT TERM ADJUSTMENT
Attorney Docket Number:	:	
SVL920020115US1	:	

This is a decision on the "Application for Patent Term Adjustment Under 37 C.F.R. 1.705(b), filed September 9, 2008. Applicant requests that the determination of patent term adjustment under 35 U.S.C. 154(b) at the time of mailing of the notice of allowance be corrected from four hundred thirty-two (432) days to four hundred twenty-eight (428) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is three hundred sixty-seven (367) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 17, 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 (PTA) to date is 432 days.

On September 9, 2008, applicant timely submitted the instant application for patent term adjustment¹. Applicant requests review of the Patent Term Adjustment determination, in particular, the four (4) day period of reduction for applicant delay associated with the RCE filed, February 13, 2008.

Applicant does not dispute the delay of 472 days attributed to the Office under 1.702(a), for failing to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under

¹ PALM records show that the Issue Fee payment was received in the Office on September 16, 2008.

35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a). Nor does Applicant dispute the delay of 6 days attributed to Applicant under 37 CFR 1.704(b), for filing a reply to the non-final Office action, mailed April 27, 2006, more than three (3) months after the mail date of the Office action, or the delay of 30 days attributed to Applicant under 37 CFR 1.704(b), for filing a reply to the non-final Office action, mailed January 16, 2008, more than three (3) months after the mail date of the Office action.

Regarding the delay of 4 days attributed to Applicant under 37 CFR 1.704(b), for filing the RCE in response to the final Office action, mailed November 9, 2008, Applicant provides that the response was filed under the provisions of 37 CFR 1.8, Certificate of mailing or transmission, dated February 8, 2006. Accordingly, Applicant requests reinstatement of the 4 days of Applicant Delay.

In this regard, applicants' attention is directed to 37 CFR 1.703(f), which provides that "[t]he date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation" of patent term adjustment. See also, Comment 10, *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000). In accordance with 37 CFR 1.703(f), the Office properly used February 13, 2008, the date of receipt of the RCE, in calculating Applicant delay. Accordingly, applicants' argument on application for patent term adjustment is not found persuasive.

In addition, a review of the record confirms that an additional period of reduction of 65 days should be entered for applicant's failure to engage pursuant to 37 CFR 1.704(c)(8).

37 CFR 1.704(c)(8) states:

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;

The MPEP 2732 explains:

37 CFR 1.704(c)(8) establishes submission of a supplemental reply or other paper after a reply has been filed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of a supplemental reply or other paper (e.g., an information disclosure statement (IDS) or petition) after an initial reply was filed requires the Office to restart consideration of the initial reply in view of the supplemental reply or other paper, which will result in a delay in the Office's response to the initial reply. 37 CFR 1.704(c)(8) does not apply to a supplemental reply or other paper that was expressly requested by the examiner. If an amendment is requested by an examiner, the examiner will have the paper processed so that it is included as part of an interview summary or examiner's amendment and not a separate paper for PALM to flag in the patent term adjustment calculation. 37 CFR 1.704(c)(8) also provides that in such a case the period of adjustment

set forth in 37 CFR 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 such other paper was filed.

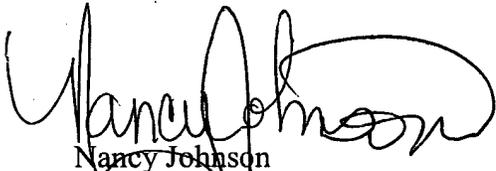
After filing a response on February 13, 2006, applicants filed an Information Disclosure Statements (IDS) on April 19, 2006, 65 days later. The record does not support a conclusion that the IDS was expressly requested by the examiner. Further, the IDS did not include a 1.704(d) statement. Accordingly, a period of reduction of 65 days is being entered.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **three hundred sixty-seven (367) days** (472 days of PTO delay, reduced by 105 (4+6+30+65) days of applicant delay), subject to any terminal disclaimer.

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

The application is being forwarded to the Office of Data Management for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods at (571) 272-3232.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PALM Screen

PALM INTRANET

PTA Calculations for Application: 10/331911			
Application Filing Date:	12/30/2002	PTO Delay (PTO):	472
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	40
Post-Issue Petitions:	0	Total PTA (days):	367
PTO Delay Adjustment:	-65		

File Contents History					
Number	Date	Contents Description	PTO	APPL	START
103	11/20/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		65	
84	06/17/2008	MAIL NOTICE OF ALLOWANCE			
83	06/17/2008	ISSUE REVISION COMPLETED			
82	06/10/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
81	06/10/2008	DOCUMENT VERIFICATION			
80	06/10/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
79	06/10/2008	CASE DOCKETED TO EXAMINER IN GAU			
78	06/06/2008	NOTICE OF ALLOWABILITY			
77	06/06/2008	DATE FORWARDED TO EXAMINER			
76	05/16/2008	RESPONSE AFTER NON-FINAL ACTION		30	72
75	05/16/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
72	01/16/2008	MAIL NON-FINAL REJECTION			
71	01/15/2008	NON-FINAL REJECTION			
70	11/15/2007	DATE FORWARDED TO EXAMINER			
69	10/30/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
68	11/15/2007	DATE FORWARDED TO EXAMINER			
67	10/30/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
66	11/15/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
65	10/30/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
64	09/13/2007	MAIL FINAL REJECTION (PTOL - 326)			
63	09/12/2007	FINAL REJECTION			
		INFORMATION DISCLOSURE STATEMENT			

62	05/14/2007	CONSIDERED			
61	07/18/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
60	07/11/2007	MISCELLANEOUS INCOMING LETTER			
59	07/11/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
58	07/11/2007	DATE FORWARDED TO EXAMINER			
57	07/02/2007	RESPONSE AFTER NON-FINAL ACTION			
56	05/14/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
55	05/14/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
54	04/04/2007	MAIL NON-FINAL REJECTION			
53	03/31/2007	NON-FINAL REJECTION			
52	02/09/2007	DATE FORWARDED TO EXAMINER			
51	02/09/2007	MAIL APPEALS CONF. REOPEN PROSEC.			
50	02/07/2007	PRE-APPEALS CONFERENCE DECISION - REOPEN PROSECUTION			
49	01/17/2007	REQUEST FOR PRE-APPEAL CONFERENCE FILED			
48	01/17/2007	NOTICE OF APPEAL FILED			
47	01/08/2007	MAIL ADVISORY ACTION (PTOL - 303)			
46	01/05/2007	ADVISORY ACTION (PTOL-303)			
45	01/04/2007	DATE FORWARDED TO EXAMINER			
44	12/15/2006	AMENDMENT AFTER FINAL REJECTION			
43	10/18/2006	MAIL FINAL REJECTION (PTOL - 326)			
42	10/16/2006	FINAL REJECTION			
41	04/19/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
40	08/08/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
39	08/04/2006	DATE FORWARDED TO EXAMINER			
38	08/02/2006	RESPONSE AFTER NON-FINAL ACTION		6	34
37	08/02/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
36	07/31/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
35.7	04/19/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
35	04/19/2006	INFORMATION DISCLOSURE STATEMENT (IDS)			

		FILED			
34	04/27/2006	MAIL NON-FINAL REJECTION			
33	04/26/2006	NON-FINAL REJECTION			
32	02/13/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31.7	02/13/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	02/13/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	02/17/2006	DATE FORWARDED TO EXAMINER			
29	02/13/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
28	02/17/2006	DATE FORWARDED TO EXAMINER			
27	02/13/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)		4	24
26	02/17/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
25	02/13/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
24	11/09/2005	MAIL FINAL REJECTION (PTOL - 326)			
23	11/08/2005	FINAL REJECTION			
22	09/27/2005	DATE FORWARDED TO EXAMINER			
21	09/14/2005	RESPONSE AFTER NON-FINAL ACTION			
20	06/15/2005	MAIL NON-FINAL REJECTION	472		-1
19	06/13/2005	NON-FINAL REJECTION			
18	06/02/2005	CASE DOCKETED TO EXAMINER IN GAU			
17	01/13/2005	CASE DOCKETED TO EXAMINER IN GAU			
16	01/10/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	06/29/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14.7	05/17/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	05/17/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	06/29/2003	CASE DOCKETED TO EXAMINER IN GAU			
12.7	12/30/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	12/30/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11.7	02/14/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

11	02/14/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	05/05/2003	APPLICATION DISPATCHED FROM OIPE			
9	05/02/2003	APPLICATION IS NOW COMPLETE			
8	04/14/2003	ADDITIONAL APPLICATION FILING FEES			
6	04/14/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	02/10/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	01/27/2003	CLEARED BY L&R (LARS)			
3	01/27/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	01/07/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/30/2002	INITIAL EXAM TEAM NN			

Search Another: **Application#** _____

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Technology Center 2100

STAAS & HALSEY LLP
1201 New York Ave, N.W., 7th Floor
Washington, D.C. 20005

In re Application of: Akizuki, et al.)
Application No.: 10/331,917)
Filed: December 31, 2002) **DECISION ON PETITION UNDER 37**
Attorney Docket No.: 122.1534) **CFR §1.181**
For: AN INSTRUCTION EXECUTION)
APPARATUS COMPRISING A COMMIT)
STACK ENTRY UNIT AND AN ENTRY)
RELEASE SECTION (As Amended)

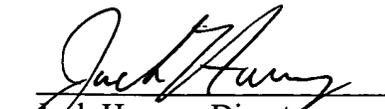
This is a decision on the petition filed January 25, 2007 under 37 CFR § 1.181. No fee is required.

A review of the file record indicates that a Request for Continued Examination (RCE) under 37 CFR § 1.114 was filed in the instant application on February 16, 2007 along with a one-month extension of time. In accordance with 37 CFR § 1.114 (d), which states in part: *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.* The RCE request was processed by the Technology support staff on February 16, 2007. The fee for the RCE and one-month extension of time were also charged to deposit account No. 19-3935 on February 16, 2007.

Accordingly, in view of the above stated reason, the instant petition, filed under 37 CFR §1.181 to withdraw the finality of the October 19, 2006 Office action in this application, is rendered moot.

Accordingly, the petition is **DISMISSED as MOOT.**

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



Jack Harvey, Director
Technology Center 2100

Computer Architecture, Software, and Information Security



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

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FEB 20 2004

OFFICE OF PETITIONS

In re Application of
Berglund, Parikh & Ball
Application No. 10/331,969
Filing date: December 30, 2002
Attorney Docket No. 58217US002
For: TELECOMMUNICATIONS TERMINAL

:
:
: DECISION ON PETITION
:
:
:

This is a decision on the petition under 37 CFR 1.182, filed January 23, 2003 (certificate of mailing date January 20, 2003), to change the surname of the third listed joint inventor.

The petition is **GRANTED**.

The last name of the third listed joint inventor will be changed from "Overfield" to "Ball". A replacement filing receipt reflecting this change is enclosed.

The file is being forwarded to Publications Division to await receipt of the issue fee, publication fee, and issue fee transmittal.

Telephone inquiries concerning this matter may be directed to the undersigned at 703-308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

enclosure: replacement filing receipt



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

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MAR 27 2007

OFFICE OF PETITIONS

In re Patent No. 6893040 :
Issued: 05/17/2005 :
Application No. 10/331993 :
Filed: 12/31/2002 :
Atty. Docket No.: 3313-0859P :

ON PETITION

This is in response to the deficiency fee payment filed pursuant to 37 CFR 1.28(c) on 29 September, 2006.

37 CFR 1.28(c) states, "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full."

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

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

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

Small entity status will no longer apply.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc: RABIN & BERDO, P.C.
1101 14TH STREET
SUITE 500
WASHINGTON, DC 20005



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MINNEAPOLIS MN 55440-1022

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APR 27 2006

OFFICE OF PETITIONS

In re Application of :
Maleki, et al. :
Application No. 11/332,027 : DECISION ON PETITION
Filed: January 13, 2006 :
Attorney Docket No. 12596-031001 :

This is a decision on the "RESPONSE TO NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION", filed March 15, 2006, which is being treated as a petition under 37 CFR 1.53 to accord the above-identified application a filing date of January 13, 2006, with 20 sheets of drawings as part of the original disclosure.

The petition is GRANTED.

Application papers in the above-identified application were filed on January 13, 2006. However, on March 2, 2006, the Initial Patent Examination Division mailed Applicant a "Notice of Incomplete NonProvisional Application." Applicant was notified that the application papers had not been accorded a filing date because the application was deposited without drawings. In addition, the Notice informed applicants that no oath or declaration had been submitted.

In response, Applicants filed the instant petition. Accompanying the petition was a copy of 20 drawing sheets. Applicants maintain that the application as originally filed included 20 pages of drawings. In support thereof, applicant submitted a postcard receipt identifying this application, itemizing "Drawings (formal, 20 sheets)" as enclosed, bearing a United States Patent and Trademark Office date-stamp of January 13, 2006, and lacking any notation of non-receipt of any item listed.

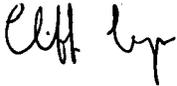
A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

Given the basis for granting the petition, the \$400 petition fee has not been charged.

There is no indication that Applicants have submitted an oath or declaration, together with the surcharge for its late filing, in response to the Notice of Incomplete Nonprovisional Application. The time period for filing an oath or declaration remains as set forth in the Notice.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of January 13, 2006, using the application papers received in the Office on that date and the 20 pages of drawings as resupplied on petition filed March 15, 2006, and for indication in Office records that 20 sheets of drawings were present on filing.

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



Cliff Congo
Petitions Attorney
Office of Petitions

30 SEP 2004



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David R. Metzger
Sonnenschein, Nath & Rosenthal
P.O. Box #061080
Wacher Drive Station, Sears Tower
Chicago, IL 60606-1080

In re Application of :
Mukawa :
Application No.: 10/332,031 :
PCT No.: PCT/JP01/05857 :
Int. Filing Date: 05 July 2001 : DECISION
Priority Date: 05 July 2000 :
Attorney's Docket No.: 09792909-5552 :
For: IMAGE DISPLAY ELEMENT AND IMAGE :
DISPLAY DEVICE :

This decision is in response to applicant's "REQUEST FOR CORRECTED FILING RECEIPT UNDER 37 CFR § 1.181" filed on 12 July 2004.

BACKGROUND

On 05 July 2001, applicant filed international application PCT/JP01/05857 that claimed priority of earlier applications, the earliest of which was filed 05 July 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 January 2002. A Demand for international preliminary examination was not filed. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 05 January 2003.

On 03 January 2003, applicant filed a Transmittal Letter (Form PTO-1390) for entry into the national stage in the United States which was accompanied by, inter alia, a translation and the basic national fee as required by 35 U.S.C. 371(c). These papers were assigned application number 10/332,031.

On 22 April 2003, the United States Patent and Trademark Office in its capacity as a Designated Office mailed out a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903), and a "FILING RECEIPT." The filing receipt indicated that the title was "IMAGE DISPLAY ELEMENT, AND IMAGE DISPLAY DEVICE."

On 12 July 2004, applicant submitted the current petition indicating that the title was incorrect, and requesting that the title be corrected to that which was reflected on the translation.

DISCUSSION

MPEP § 1893.03(e) states, in part:

In addition, the Office will normally use the title of the invention indicated on the cover page of the publication as the title of the national stage application that will appear on the filing receipt. The cover page will include an English translation of the title if the international application was published in a foreign language. See PCT Rule 48.3(c). Applicants desiring to have the filing receipt reflect a title that is different than the English language title appearing on the cover page must submit either a preliminary amendment amending the title or an application data sheet (37 CFR 1.76) with the desired title. Filing receipts are mailed shortly after the mailing of the NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495 (Form PCT/DO/EO/903).

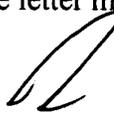
The title which appears on the filing receipt is identical to the title that appears on the cover page of the pamphlet.

CONCLUSION

The petition to correct the title is DISMISSED.

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

Debra S. Brittingham
PCT Special Programs Examiner
PCT Legal Office



Boris Milef
PCT Legal Examiner
PCT Legal Office

DSB/BM:dsb

Telephone: (703) 308-3401

Facsimile: (703) 308-6459



NOVAK DRUCE DELUCA + QUIGG LLP
1300 EYE STREET NW
SUITE 1000 WEST TOWER
WASHINGTON DC 20005

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JAN 17 2008

OFFICE OF PETITIONS

In re Application of :
BREUER et al. :
Application No. 10/332,035 : DECISION ON PETITION
Filed: 01/06/2003 :
Attorney Docket No. 51556 :

This is a decision on the petition under 37 CFR 1.181, filed January 9, 2007, to withdraw the holding of abandonment in the above-identified application. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The undersigned immediately reviewed the petition upon its receipt and rendered the following decision. The Office sincerely apologizes for any inconvenience.

On February 16, 2006, the Office mailed a final Office action, which set a three-month shortened statutory period to reply. In the apparent absence of a timely reply, the Office mailed a Notice of Abandonment on December 27, 2006.

In the present petition, applicants requested that the Office withdraw the holding of abandonment as stated in the Notice of Abandonment of December 27, 2006. Applicants averred that the Office issued the Notice of Abandonment in error because applicants filed a timely and proper reply to the final Office action of February 16, 2006. Applicants asserted that they submitted a Notice of Appeal, a transmittal form, an extension fee form, and a credit card form via facsimile transmission.

In support of the assertion, applicants provided a copy of a correspondence to Tracy Druce from eFax.com,¹ stating, in pertinent part:

Re: SN: 10/322,035 Our: PF 51556 (Apeal [sic] & 2 Ext.)

¹ The practitioner noted the correspondence, indicating the successful facsimile transmission, erroneously listed the Application Number as 10/322,035, instead of the intended Application Number of 10/332,035. The practitioner averred that this was a mere typographical error and that the Attorney docket number PF 51556 was correctly noted on the transmission record. The practitioner stated that the reply and appeal, which were transmitted on July 17, 2006, included the correct serial number.

The 10 page fax you sent through eFax.com to 15712738300 was successfully transmitted at 2006-07-17 21:31:32 (GMT).

The length of transmission was 258 seconds.

The receiving machine's fax ID: USPTO.

Pursuant to 37 CFR 1.8(b):

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition does not satisfy requirements (2) and (3). Applicants did not submit an additional copy of the previously transmitted Notice of Appeal, transmittal form, extension fee form, or credit card form in response to the final Office action. Moreover, as the communication confirming transmission of 10 pages to the USPTO on July 17, 2006, indicated an incorrect application number, applicants should provided a statement attesting on the basis of personal knowledge of the previously timely transmission of the reply (i.e. the person who signed the certificate of facsimile transmission).

Accordingly, the petition is **dismissed**.

Assuming, arguendo, that applicants can establish that they submitted a timely reply to the final Office action in the form of a Notice of Appeal and a request for an extension of time for response, the two-month extendable period to file an appeal brief in compliance with 37 CFR 41.37, accompanied by the fee, would have begun to run from July 17, 2006, the date of receipt of the Notice of Appeal.

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

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

The \$400.00 petition fee is unnecessary and will be refunded to the credit card.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



JAMES E. BUTLER, PH.D., ESQ
AMYLIN PHARMACEUTICALS, INC.
9360 TOWNE CENTRE DRIVE
SAN DIEGO CA 92121

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MAY 30 2007

OFFICE OF PETITIONS

In re Application of	:	
Bradburne et al.	:	
Application No. 10/332,039	:	DECISION ON PETITION
Filed: 01-06-2003	:	
Attorney Docket No. 3504.270	:	

This is decision on the petition under 37 CFR 1.181, filed April 10, 2007, to withdraw the holding of abandonment.

On August 15, 2006, the Office mailed a nonfinal Office action, which set a three month shortened statutory period to reply. In the apparent absence of a timely filed response, the application became abandoned on November 16, 2006. On March 21, 2007, the Office mailed a Notice of Abandonment.

In the present petition, petitioners asserted that they filed a timely response to the nonfinal Office action. In support of the assertion, petitioners submitted a copy of the response and a date-stamped postcard receipt, acknowledging receipt of, *inter alia*, "Response Under 37 CFR 1.111; 15 pages" ("Response") on November 20, 2006.

Upon reviewing the record, the Response was not located among the papers in the Image File Wrapper. The date-stamped postcard receipt serves as prima facie evidence of receipt of the Response on November 20, 2006. See MPEP 503. The copy of the Response contained a certificate of mailing dated November 14, 2006. Therefore, petitioners are relying of the certificate of mailing as evidence of the timely filing of the Response on November 14, 2006.

"Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512." MPEP 711.03(c)(I)(B). Pursuant to MPEP 512(IV), applicants may notify the USPTO of the previous mailing and supply a duplicate copy of the correspondence, accompanied by a statement attesting on a personal knowledge basis, or to the satisfaction of the Director, to the previous timely mailing. If the person signing the statement did not sign the certificate of

mailing, then the person signing the statement should explain how they have firsthand knowledge of the previous timely mailing. Such a statement should be filed promptly after the person becomes aware that the Office has not received the correspondence.

Petitioners did not provide a statement attesting to a personal knowledge of the mailing of the original response on the date indicated on the certificate of mailing (i.e., a statement by M. Castro, the person who signed the certificate). Accordingly, the petition to withdraw the holding of abandonment is **dismissed**.

Before the Office can withdraw the holding of abandonment, petitioners must submit a request for reconsideration and a statement in compliance with 37 CFR 1.8(b)(3). A request for reconsideration of this decision must be submitted with TWO (2) MONTHS of the mailing date of this decision. Extensions of this time period may be granted under 37 CFR 1.136. The request for reconsideration should include a cover sheet entitled "Renewed Petition Under 37 CFR 1.181."

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

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

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

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

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



JAMES E. BUTLER, PH.D., ESQ
AMYLIN PHARMACEUTICALS, INC.
9360 TOWNE CENTRE DRIVE
SAN DIEGO CA 92121

COPY MAILED

JUN 12 2007

OFFICE OF PETITIONS

In re Application of :
Bradburne et al. :
Application No. 10/332,039 : **DECISION ON PETITION**
Filed: 01-06-2003 :
Attorney Docket No. 3504.270 :

This is decision on the petition under 37 CFR 1.181, filed June 5, 2007, and resubmitted on June 6, 2007, to withdraw the holding of abandonment.

On August 15, 2006, the Office mailed a nonfinal Office action, which set a three month shortened statutory period to reply. In the apparent absence of a timely filed response, the application became abandoned on November 16, 2006. On March 21, 2007, the Office mailed a Notice of Abandonment. On April 10, 2007, petitioners filed a petition to withdraw the abandonment, which was dismissed by the decision of May 30, 2007.

Petitioners asserted that they filed a timely response to the nonfinal Office action. In support of the assertion, petitioners submitted a copy of the response and a date-stamped postcard receipt, acknowledging receipt of, *inter alia*, "Response Under 37 CFR 1.111; 15 pages" ("Response") on November 20, 2006.

Upon reviewing the record, the Response was not located among the papers in the Image File Wrapper. The date-stamped postcard receipt serves as prima facie evidence of receipt of the Response on November 20, 2006. See MPEP 503. The copy of the Response contained a certificate of mailing dated November 14, 2006. Therefore, petitioners are relying of the certificate of mailing as evidence of the timely filing of the Response on November 14, 2006.

Pursuant to 37 CFR 1.8(b):

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from

the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Petitioners have meet the requirements above. Specifically, petitioners did provided a statement by M. Castro, the person who signed the certificate, attesting to a personal knowledge of the mailing of the original response on the date indicated on the certificate of mailing. Accordingly, the petition to withdraw the holding of abandonment is **granted**.

This matter is being referred to the Technology Center AU 1654 for review of the amendment filed on April 10, 2007.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mailed: FEB 10 2005

dss
Paper Number

In re application of
Schneider et al.
Serial No. 10/332,045
Filed: December 20, 2001
For: SUPPORTED, TITANIZED CHROMIUM CATALYST
AND ITS USE FOR PREPARING HOMOPOLYMERS AND
COPOLYMERS OF ETHYLENE

:
:
:DECISION ON
:PETITION
:
:

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION, filed October 25, 2004. The petition requests that the abandonment be withdrawn. The requester asserts that the Office Action mailed April 05, 2004 was not received at the applicant's correspondence address.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.03(c) - NEW PROCEDURE TMOG 1170 O.G. 114). A review of the petitioner's evidence indicates that the request has merit. The evidence presented is sufficient to establish that the applicants or applicant's representative did not receive the Office Action mailed April 05, 2004. The evidence provided includes a statement by the petitioner that the Office Action mailed April 05, 2004 was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Office Action was not received. Also provided is a copy of the attorney's application docket records where the Office Action would have been posted had it been timely received.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt remailing of the Office Action and restarting of the statutory period of response from the remail date thereof.

The Petition is **GRANTED**.


Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Keil & Weinkauff
1350 Connecticut Avenue, N.W.
Washington, D.C. 20036



25 APR 2003

Muserlian Lucas and Mercanti
600 Third Avenue
New York, NY 10016

In re Application of :
DIETLIN, François et al. :
Application No.: 10/332,060 :
PCT No.: PCT/FR01/01749 :
Int. Filing Date: 06 June 2001 :
Priority Date: 06 June 2000 :
Docket No.: GEI-097 :
For: NEW METHOD FOR OBTAINING :
AQUEOUS FORMULATIONS WITH :
ACTIVE PRINCIPLES SUSCEPTIBLE :
TO OXIDATION AND THE AQUEOUS :
SOLUTIONS THUS OBTAINED :

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

Applicant's "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 02 January 2003 is **GRANTED**.

Applicant states "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration has not yet been submitted.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision, including the mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration are required.

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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



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

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FEB 17 2010

OFFICE OF PETITIONS

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

In re Application of :
Pulkka, et al. :
Application No. 10/332,062 : ON APPLICATION FOR
Filed: May 8, 2003 : PATENT TERM ADJUSTMENT
Atty Docket No. :
088245-0112 :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705" filed September 23, 2009, which is properly treated under 37 CFR.1.705(b). Applicants submit that the patent term adjustment to be indicated on the patent is one thousand six hundred seventeen (1,617) days, not nine hundred and six (906) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee¹.

It is noted that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including -

¹ For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is further noted that a Request for Continued Examination (RCE) was filed in this application on December 11, 2008.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/332,074	4/23/03	JOSEPH DE WITT	3538-P03079

Title: **METHOD OF TESSELLATING A SURFACE**

Art Unit	Paper Number
----------	--------------

Correspondence Address:

JOHN C. DORFMAN
DANN, DORFMAN, HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 720
PHILADELPHIA PA 19103

PATENT & TRADEMARK OFFICE
MAILED

JUN 24 2003

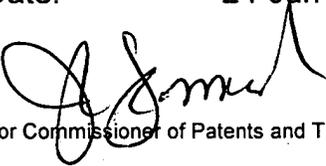
LICENSING & REVIEW

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

License Number: 530,915
Grant Date: 24-Jun-03

This license is granted retroactively to the date(s) and the country(s) indicated on the attached decision.

Approved



for Commissioner of Patents and Trademark

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

This license is granted under 37 CFR 5.15(a).

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

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

LICENSE FOR FOREIGN FILING

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



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

In re: CLINTON :DECISION ON REQUEST
Filing date: April 3, 2003 :UNDER 37 CFR 5.25
Serial No.: 10/332,074
Docket No.: 3538-P03079US0

Title: METHOD OF TESSELLATING A SURFACE

This is a decision on the petition for retroactive foreign filing license.

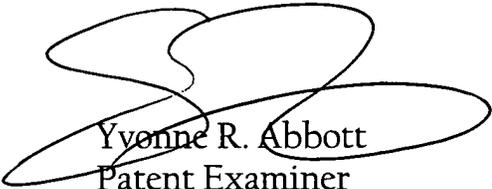
It has been determined that a retroactive license for foreign filing under 35 U.S.C. 184 be granted with respect to the filing(s) listed below. The petition complies with 37 C.F.R. 5.25 in that there is an adequate showing that the subject matter in question was not under secrecy order, that the license was diligently sought, and that the material was filed abroad without the required license under 37 C.F.R 5.11 through error and without deceptive intent.

Country

Date

United Kingdom

13 June 2001


Yvonne R. Abbott
Patent Examiner
(703) 308-2866



RONALD R. SANTUCCI
FROMMER LAWRENCE & HAUG, LLP
745 FIFTH AVENUE
NEW YORK, NY 10151

COPY MAILED

MAR 3 1 2006

OFFICE OF PETITIONS

In re Application of :
Jean-Michel Orsat :
Application No. 10/332,076 : ON PETITION
Filed: January 2, 2003 :
Attorney Docket No. 930108-2044 :

This is a decision on the petition under 37 CFR 1.181, filed August 10, 2005, to withdraw the holding of abandonment. The petition was recently forwarded to this office for consideration.

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 1.181."

This application became abandoned for failure to timely reply to the "Notice of Non-Compliant Amendment" (Notice) mailed November 24, 2004, which set a one (1) month period for reply. Accordingly, this application became abandoned on December 25, 2004. A Notice of Abandonment was mailed on August 4, 2005.¹

Petitioner contends the Office communication was never received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See *Withdrawing the Holding of Abandonment When Office Actions*

¹ Please note, the Notice of Abandonment erroneously indicated that the application became abandoned for failure to reply to the Office letter mailed September 21, 2004.

Are Not Received; Notice 1156 Off. Gaz. Pat. Office 53 (November 16, 1993) and MPEP 711.03(c).

The required statement from the practitioner and the required copy of the docket record where the non-received Office communication would have been entered had it been received and docketed and referenced in practitioner's statement have not been submitted. As such, the petition must be dismissed.

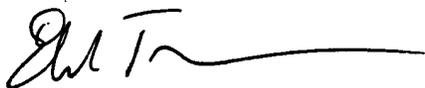
Further correspondence with respect to this matter should be addressed as follows:

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

By FAX: (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 may be directed to the undersigned at (571) 272-3228.



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



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RONALD R. SANTUCCI
FROMMER LAWRENCE & HAUG, LLP
745 FIFTH AVENUE
NEW YORK, NY 10151

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MAY 16 2006
OFFICE OF PETITIONS

In re Application of :
Jean-Michel Orsat :
Application No. 10/332,076 : ON PETITION
Filed: January 2, 2003 :
Attorney Docket No. 930108-2044 :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the "Notice of Non-Compliant Amendment" (Notice) mailed November 24, 2004, which set a one (1) month period for reply. Accordingly, this application became abandoned on December 25, 2004. A Notice of Abandonment was mailed on August 4, 2005.¹

The file is being forwarded to Technology Center 2800 for review of the "Response To Notice of Non-Compliant Amendment" filed May 1, 2006, *in due course*.

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

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

¹ Please note, the Notice of Abandonment erroneously indicated that the application became abandoned for failure to reply to the Office letter mailed September 21, 2004.



15 JUL 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Armin Tay
2599 E. Temple Ave., Apt. 1
West Covina, CA 91792-1805

In re Application of :
TAY, Armin S. :
U.S. Application No.: 10/332,085 :
PCT No.: PCT/US01/17654 :
Int. Filing Date: 30 May 2001 :
Priority Date: 19 June 2000 :
Attorney Docket No.: None :
For: AXIAL POSITION CHANGING :
TRANSMISSION MECHANISM :

**DECISION ON
PETITION FOR REVIVAL
UNDER 37 CFR 1.137(b)**

Applicant's "Petition for Revival of an International Application for Patent Designating the US Abandoned Unintentionally Under 37 CFR 1.137(b)" filed with the national stage papers on 04 January 2003 is hereby **GRANTED** as follows:

The basic national fee, independent claim fee, surcharge fee and petition fee for a small entity have been paid. Applicants state that "[t]he entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required in this case. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a) and (b) has been submitted.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 30 May 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 04 January 2003.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457



21 JUL 2003

Townsend and Townsend and Crew
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111

In re Application of :
Beraud et al. :
US Application No.: 10/332,089 :
PCT Application No.: PCT/US01/16300 :
International Filing Date: 17 May 2001 :
Priority Date: 17 May 2000 :
Attorney's Docket No.: 020552-001600PC :
For: NOVEL MOTOR PROTEINS AND :
METHODS FOR THEIR USE :

**DECISION ON
PETITION FOR REVIVAL
UNDER 37 CFR 1.137(b)**

The petition to revive under 37 CFR 1.137(b), filed on 2 January 2003 in the above-captioned application, is hereby **GRANTED** as follows.

On 17 May 2001, Applicants filed international application PCT/US01/16300, which claimed priority of an earlier application filed on 17 May 2000. A demand for international preliminary examination, in which the United States was elected, was filed on 11 October 2001, prior to the expiration of nineteen months from the priority date. The thirty-month period for entering the national stage ended on 17 November 2002.

The basic national fee required by 37 CFR 1.495(b) was not submitted on or before 18 November 2002 (Monday). Accordingly, the international application became abandoned as to the United States on 18 November 2002.

The instant petition is accompanied by:

- (1) A transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371;
- (2) An authorization to charge the \$750 basic national fee and the \$1,300 petition fee to Deposit Account No. 20-1430;
- (3) A statement to the effect that the entire delay in filing the basic national fee from its due date until the filing of the instant petition under 37 CFR 1.137(b) was unintentional.

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

The request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the national stage in the United States of America.

Applicants' claim for priority is acknowledged. The application has an international filing date of 17 May 2001 under 35 U.S.C. 363.

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



Leonard Smith
PCT Legal Examiner
PCT Legal Office



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



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

Richard F Lemuth
Shell Oil Company
Intellectual Property
P O Box 2463
Houston TX 77252-2463

COPY MAILED

MAY 23 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Huisman, et al. :
Application No. 10/332,094 :
Filed: February 13, 2003 :
Attorney Docket No. TS0786 US :
For: CATALYSTS SUPPORT, A :
SUPPORTED GROUP VIII METAL :
CATALYST AND PRECURSOR THEREOF, :
PROCESSES FOR THEIR PREPARATIONS, :
AND USE OF THE SUPPORTED GROUP :
VIII METAL CATALYST :

This is a decision on the petition, filed March 9, 2006 (certificate of mailing date March 7, 2006), under 37 CFR 1.137(b) to revive the above-identified application.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the July 11, 2005 non-final Office action. No response being received and no extensions of time being obtained, this application became abandoned on October 12, 2005. A Notice of Abandonment was mailed on January 25, 2006.

Applicants have submitted an amendment in reply to the July 11, 2005 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the July 11, 2005 non-final Office action, and the petition fee.

The petition is **GRANTED**.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the \$1,020.00 extension of time submitted with the petition on March 9, 2006 (certificate of mailing date March 7, 2006) was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioners' deposit account.

After the mailing of this decision the application will be forwarded to Technology Center AU 1754 for consideration of the amendment filed on March 9, 2006 (certificate of mailing date March 7, 2006).

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



E. Shirene Willis
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEP 14 2004

In re Application of :
Aloys Wobben :
Application No. 10/332,099 : DECISION ON PETITION
Filed: June 19, 2003 :
Attorney Docket No. 970054.430USPC :

This is a decision on the petition to make special filed on December 8, 2003. The petition is based upon the practice described in MPEP § 708.02(VI) "Energy." Therefore, no petition fee is required.

The petition is granted.

The petition to make special based upon the practice in MPEP § 708.02(VI) is deemed to satisfy all of the requirements therefore. Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the next action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3748 is being informed of this decision, and will advise the examiner to take future action consistent therewith.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner,
Technology Center 3700

Seed Intellectual Property Law Group PLLC
701 Fifth Ave.
Suite 6300
Seattle, WA 98104-7092



14 JUL 2003

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WASHINGTON, DC 20231
www.uspto.gov

SMITH-HILL & BEDELL, P.C.
12670 N.W. Barnes Road, Suite 104
Portland, Oregon 97229

In re Application of	:	
Heikki AHONEN et al	:	DECISION ON
Application No.: 10/332,101	:	
PCT No.: PCT/FI01/00647	:	
Int. Filing Date: 06 July 2001	:	REQUEST UNDER
Priority Date: 06 July 2000	:	
Attorney's Docket No.: LAIN 2609	:	
For: EQUIPMENT AND METHOD FOR	:	37 CFR 1.497(d)
ENHANCING COMBUSTION... USING SOUND	:	

This is a decision on applicants' "STATEMENT CONCERNING INVENTOR ARTTU SALMELA " filed on 03 January 2003, which is being treated under 37 CFR 1.497(d) requesting deleting inventor, Arttu Salmela, in the executed declaration.

BACKGROUND

On 06 July 2001, applicants filed international application No. PCT/FI01/00647 designating the United States and claiming a priority date of 06 July 2000. A Demand was filed in this international application on 27 December 2001. Accordingly, the deadline for entry into the national stage by paying the basic national fee in the U.S. expired as of midnight of 06 January 2003.

On 03 January 2003, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter were, *inter alia*, the requisite basic national fee, an executed declaration and the present request to delete inventor, Arttu Salmela, in the executed declaration because the executed declaration names an inventive entity different from the inventive entity set forth in the international application, i.e., without inventor Salmela.

DISCUSSION

A submission under 37 CFR 1.497(d) must include:

- (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
- (2) the fee set forth in § 1.17(I); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see 37 CFR §3.73(b) of this chapter).

With respect to item (1), the statement submitted on 03 January 2003 is insufficient since it is not by Arttu Salmela and the statement does not state that the error in inventorship occurred without a deceptive intent. A statement is required from each inventor being deleted that the inventorship error occurred without deceptive intention.

With respect to item (2), the processing fee of \$130.00 has not been provided.

With respect to item (3), there does not appear to be a written consent of the assignee: NIRANIA KY, which is listed as the applicant in the published international application PCT/FI01/00647. Note MPEP 201.03.

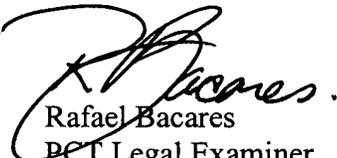
Accordingly, the request does not meet the requirements under 37 CFR 1.497(d).

CONCLUSION

For the reasons above, the request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.497(d)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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


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20 MAY 2004

#C



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SMITH-HILL & BEDELL, P.C.
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Portland, Oregon 97229

In re Application of	:	DECISION ON
Heikki AHONEN et al	:	
Application No.: 10/332,101	:	WITHDRAW OF
PCT No.: PCT/FI01/00647	:	
Int. Filing Date: 06 July 2001	:	REQUEST UNDER
Priority Date: 06 July 2000	:	
Attorney's Docket No.: LAIN 2609	:	
For: EQUIPMENT AND METHOD FOR	:	37 CFR 1.497(d)
ENHANCING COMBUSTION... USING SOUND	:	

This is a decision on applicant's "WITHDRAWAL OF REQUEST UNDER 37 CFR 1.497(d)" filed on 08 December 2003, and the subsequent executed declaration filed on 02 January 2004.

BACKGROUND

In a decision from this Office on 14 July 2003, the Request under 37 CFR 1.497(d) was dismissed because requirements 1-3 pursuant 37 CFR 1.497(d) had not been met.

On 08 December 2003, applicants submitted a request to withdraw the Request under 37 CFR 1.497(d) filed on 03 January 2003 since applicants withdrew the request that Arttu Salmela be deleted as an inventor with respect to the United States national stage of International Application No. PCT/FI01/00647.

On 02 July 2003, THE USPTO received from the International Bureau a "NOTIFICATION OF THE RECORDING OF A CHANGE (Form PCT/IB/306)" indicating that applicant/inventor, SALMELA Arttu, had been deleted from the records.

On 02 January 2004, applicants submitted a declaration signed by AHONEN, Heikki; SALMELA, Arttu; and KINNUNEN, Martti.

DISCUSSION

The international application PCT/FI01/00647 originally named three inventors/applicants: AHONEN, Heikki; SALMELA, Arttu; and KINNUNEN, Martti. However, applicants during the international stage deleted inventor/applicant SALMELA, Arttu under PCT Rule 92bis.1 from the international application.

On 03 January 2003, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. An executed declaration was submitted at that time that listed two of the three inventors and they were Heikki AHONEN, and Martti KINNUNEN. Arttu SALMELA was not listed in the declaration and at time applicants submitted a request under 37 CFR 1.497(d) to delete inventor, Arttu SALMELA¹, from the national stage application.

On 02 January 2004 applicants withdrew the previous request that Arttu SALMELA be deleted as an inventor with respect to the United States national stage of International Application No. PCT/FI01/00647, but the request is ineffective since SALMELA Arttu had been already removed as an applicant/inventor in the international stage under PCT Rule 92bis.1.

Moreover, applicants submitted on 02 January 2004 a second executed declaration executed by the three original inventors/applicants. However, this declaration is improper under 37 CFR §1.63 because the declaration improperly lists SALMELA Arttu as an inventor.

Applicants will need to file a renewed request under 37 CFR 1.497(d) to add SALMELA Arttu as inventor in the above mentioned patent application and explain the inconsistency between the first executed declaration and second executed declaration with respect to SALMELA Arttu.

A submission under 37 CFR 1.497(d) must include:

- (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
- (2) the fee set forth in § 1.17(I); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see 37 CFR §3.73(b) of this chapter).

Accordingly, the request can not be granted at this time because the declaration is not proper for application 10/332,101.

CONCLUSION

For the reasons above, the request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Third Renewed Request Under 37 CFR 1.497(d)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

¹ Arttu SALMELA had already been deleted from the invention in the international phase under PCT Rule 92bis.1

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



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29 NOV 2004

#8



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Portland, Oregon 97229

In re Application of	:	DECISION ON
Heikki AHONEN et al	:	
Application No.: 10/332,101	:	THIRD RENEWED
PCT No.: PCT/FI01/00647	:	
Int. Filing Date: 06 July 2001	:	REQUEST UNDER
Priority Date: 06 July 2000	:	
Attorney's Docket No.: LAIN 2609	:	
For: EQUIPMENT AND METHOD FOR	:	37 CFR 1.497(d)
ENHANCING COMBUSTION... USING SOUND	:	

This is a decision on applicant's "THIRD RENWED REQUEST UNDER 37 CFR 1.497(d)" filed on 26 July 2004, requesting the addition of Arttu Salmela as a joint inventor in the above application.

BACKGROUND

In a decision from this Office on 20 May 2004, the Request under 37 CFR 1.497(d) was dismissed because requirements 1-3 pursuant 37 CFR 1.497(d) had not been met.

On 26 July 2004, applicants submitted a third renewed request under 37 CFR 1.497(d) requesting that Arttu Salmela be added as an inventor with respect to the United States national stage of International Application No. PCT/FI01/00647.

DISCUSSION

A submission under 37 CFR 1.497(d) must include:

- (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
- (2) the fee set forth in § 1.17(I); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see 37 CFR §3.73(b) of this chapter).

A review of the application file reveals that applicants have satisfied item (1) but not items (2) and (3) under 37 CFR 1.497(d).

With respect to item (1), a statement has been submitted by Arttu Salmela stating that the error in inventorship occurred without a deceptive intent.

With respect to item (2), the processing fee of \$130.00 has not been provided.

With respect to item (3), the consent of the assignee, Nirafon Oy, does not comply with 37 CFR 3.73(b) in that it is not accompanied by documentary evidence of the chain of title from the inventors to the assignee for the invention of the above national stage application.

Accordingly, the request does not meet the all requirements under 37 CFR 1.497(d).

Therefore, the request can not be granted at this time for the reasons stated above.

CONCLUSION

For the reasons above, the request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Fourth Renewed Request Under 37 CFR 1.497(d)". Extensions of time may be obtained under 37 CFR 1.136(a).

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



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07 JUN 2005

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In re Application of	:	DECISION ON
Heikki AHONEN et al	:	
Application No.: 10/332,101	:	FOURTH RENEWED
PCT No.: PCT/FI01/00647	:	
Int. Filing Date: 06 July 2001	:	REQUEST UNDER
Priority Date: 06 July 2000	:	
Attorney's Docket No.: LAIN 2609	:	
For: EQUIPMENT AND METHOD FOR	:	37 CFR 1.497(d)
ENHANCING COMBUSTION... USING SOUND	:	

This is a decision on applicant's "FOURTH RENWED REQUEST UNDER 37 CFR 1.497(d)" filed on 21 December 2004, requesting the addition of Arttu Salmela as a joint inventor in the above application.

BACKGROUND

In a decision from this Office on 29 November 2004, the Request under 37 CFR 1.497(d) was dismissed because requirements (2) and (3) pursuant 37 CFR 1.497(d) had not been met.

On 21 December 2004, applicants submitted a fourth renewed request under 37 CFR 1.497(d) requesting that Arttu Salmela be added as an inventor with respect to the United States national stage of International Application No. PCT/FI01/00647.

DISCUSSION

A submission under 37 CFR 1.497(d) must include:

- (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
- (2) the fee set forth in § 1.17(I); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see 37 CFR §3.73(b) of this chapter).

A review of the application file reveals that applicants have satisfied items (1), and (2) but not item (3) under 37 CFR 1.497(d).

With respect to item (1), a statement has been submitted by Arttu Salmela stating that the error in inventorship occurred without a deceptive intent.

With respect to item (2), the processing fee of \$130.00 has been provided by check.

With respect to item (3), the consent of the assignee, Nirafon Oy, still does not comply with 37 CFR 3.73(b) in that it is not accompanied by documentary evidence of the chain of title from the inventors to the assignee for the invention of the above national stage application. There is no copy of the executed assignment to the assignee in the file. Therefore, to establish the right of the Assignee to take action, applicants must submit a copy of the executed assignment or specify the reel and frame number. Note MPEP 324 and 37 CFR 3.73(b).

Accordingly, the request does not meet the all requirements under 37 CFR 1.497(d).

Therefore, the request can not be granted at this time for the reason stated above.

CONCLUSION

For the reasons above, the request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Fifth Renewed Request Under 37 CFR 1.497(d)". Extensions of time may be obtained under 37 CFR 1.136(a).

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



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12 JUL 2005

#11



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SMITH-HILL & BEDELL, P.C.
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Portland, Oregon 97229

In re Application of	:	SUBSEQUENT DECISION ON
Heikki AHONEN et al	:	
Application No.: 10/332,101	:	FOURTH RENEWED
PCT No.: PCT/FI01/00647	:	
Int. Filing Date: 06 July 2001	:	REQUEST UNDER
Priority Date: 06 July 2000	:	
Attorney's Docket No.: LAIN 2609	:	
For: EQUIPMENT AND METHOD FOR	:	37 CFR 1.497(d)
ENHANCING COMBUSTION... USING SOUND	:	

This is a subsequent decision on applicant's "FOURTH RENWED REQUEST UNDER 37 CFR 1.497(d)" filed on 21 December 2004, requesting the addition of Arttu Salmela as a joint inventor in the above application.

BACKGROUND

In a decision from this Office on 07 June 2005, the Request under 37 CFR 1.497(d) was dismissed because requirement (3) pursuant 37 CFR 1.497(d) had not been met.

However, a review of applicants' submitted fourth renewed request under 37 CFR 1.497(d) filed on 21 December 2004 shows that the request complied with 37 CFR 3.73(b) in that it provided the Reel 14222, Frame 0318 information for the assignment of the above application.

DISCUSSION

A submission under 37 CFR 1.497(d) must include:

- (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
- (2) the fee set forth in § 1.17(I); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see 37 CFR §3.73(b) of this chapter).

A review of the application file reveals that applicants have satisfied requirements (1) – (3).

With respect to item (1), a statement has been submitted by Arttu Salmela stating that the error in inventorship occurred without a deceptive intent.

With respect to item (2), the processing fee of \$130.00 has been provided by check.

With respect to item (3), Nirafon Oy, the assignee, consents to the correction of inventorship to the above application and it has filed the requisite papers establishing its right to take action under 37 CFR §3.73(b). The Reel/ Frame number for the assignment for the above application is 14222/0318.

Accordingly, the requests are deemed to satisfy requirements (1), (2), and (3) under 37 CFR 1.497(d).

CONCLUSION

For the reasons above, the request under 37 CFR 1.497(d) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing consistent with this decision. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **02 January 2004**.



Rafael Bacares

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08 FEB 2005

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John J. Gresens
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P.O. Box 2903
Minneapolis, MN 55402

In re Application of	:	
JENSEN, Alexander Theodorus	:	
Application No.: 10/332,102	:	DECISION ON PETITION
PCT No.: PCT/NL01/00508	:	
Int. Filing Date: 05 July 2001	:	
Priority Date: 05 July 2000	:	
Attorney Docket No.: 9424.208USWO	:	
For: METHOD AND SYSTEM AS WELL AS	:	
DATA CARRIER FOR	:	
AUTHENTICATING A CLIENT WHO	:	
DESIRES TO OBTAIN A SERVICE. . .	:	

This decision in response to applicant's "Petition to Withdraw the Holding of Abandonment" filed 02 February 2005, which is being treated as a petition under 37 CFR 1.181(a). No petition fee is required.

BACKGROUND

On 05 July 2001, applicant filed international application PCT/NL01/00508 which claimed a priority date of 05 July 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 January 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or at midnight on 05 January 2003.

On 03 January 2003, applicant filed a Transmittal Letter for entry into the national stage accompanied, *inter alia*, by: the requisite basic national fee; a copy of the international application, and a preliminary amendment.

On 07 August 2003, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) together with a surcharge payment were required. The notification set a two-month time limit in which to respond.

On 18 October 2004, the United States Elected Office mailed a Notification of Abandonment under 37 CFR 1.495 (Form PCT/DO/EO/909) indicating that the application

was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 07 August 2003 within the time period set therein.

On 02 February 2005, applicant filed the present petition which was accompanied, among other things: a copy of the declaration and power of attorney filed 25 September 2003; post card receipt dated 25 September 2003; and a transmittal letter dated 25 September 2003.

DISCUSSION

Applicant states in their present petition that a declaration and power of attorney was received at the United States Patent and Trademark Office on 25 September 2003. A review of the present application reveals that the declaration and power of attorney filed 25 September 2003 is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

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

Here, applicant has provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicant, title of invention, and attorney docket number. The receipt itemizes a declaration executed by the inventor. The receipt is stamped "Rec'd. PCT/PTO 25 SEP 2003" across its face is sufficient to indicate that the declaration and power of attorney was in fact received in the Office on 25 September 2003.

CONCLUSION

Applicant' petition under 37 CFR 1.181 is **GRANTED**.

This application will be given an international filing date of 05 July 2001 and a date of **25 September 2003** under 35 U.S.C. 371. The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.



Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04-02-08

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/332105** Patent No.: **7186839**

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

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

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



Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments: _____

_____ **JOSEPH K. MCKANE**
_____ **SUPERVISORY PATENT EXAMINER**
_____ **TECHNOLOGY CENTER 1600**

SPE

1626
Art Unit



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Melanie McCollum
Oliff & Berridge
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OCT 10 2006

OFFICE OF PETITIONS

In re Application of
Patricia Renaud et al.
Application No. 10/332,123
Filed: September 24, 2003
Attorney Docket No. 114502

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:

**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 July 11, 2006.

The request is **APPROVED**.

A review of the file record indicates that Melanie McCollum: (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, Melanie McCollum has/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 address of record remains unchanged.

The attorneys and/or agents associated with the firm Oliff & Berridge remain the practitioners of record.

There is an outstanding Office action mailed April 3, 2006 that requires a reply from the attorneys and/or agents of record.

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

for

David Bucci
Petitions Examiner
Office of Petitions

26 JUN 2003



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#3

Young & Basile
Suite 624
3001 West Big Beaver Road
Troy, MI 48084-3107

In re Application of	:
FREY et al.	:
Serial No.: 10/332,153	:
PCT No.: PCT/EP01/07555	: DECISION ON PETITION
Int. Filing Date: 02 July 2001	:
Priority Date: 03 July 2000	: UNDER 37 CFR 1.137(b)
Attorney's Docket No.: VMP-505-A	:
For: DRIVE DEVICE	:

The petition to revive under 37 CFR 1.137(b) filed 06 January 2003 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that the basic national fee of \$900 has been paid. The required petition fee of \$1300 has also been paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing including the issuance of a Notification of Missing Requirements indicating that an oath or declaration in compliance 37 CFR 1.497(a) and (b) and the \$130 surcharge for filing the declaration after the thirty month period is required.

Cynthia M. Kratz
Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

10 / 332153

Draft Petition Decision

Serial No. _____

Date of Draft _____

Legal Examiner _____

Conferee Approval _____

Petitions Book Nos. _____

Petition Log Book No. _____

PALM Petition Code _____

Charge Account No. _____

Fee	_____	Code

Granted

Dismissed _____

Dismissed with Recommendation _____

27 FEB 2004



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#4

David J. Alexander
ATOFina Petrochemicals
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Houston, TX 77267-4412

In re Application of :
DEBRAS, Guy et al. :
Application No.: 10/332,160 :
PCT No.: PCT/EP01/07308 :
Int. Filing Date: 27 June 2001 :
Priority Date: 05 July 2000 :
Attorney Docket No.: 31223/84337 :
For: PRODUCTION OF POLYPROPYLENE :
HAVING IMPROVED PROPERTIES :

DECISION ON
PETITION
UNDER 37 CFR 1.181

This decision is in response to "Response to Notification of Missing Requirements," which has been treated as a petition under 37 CFR 1.181 for the reasons set forth below.

BACKGROUND

On 27 June 2001, applicants filed international application PCT/EP01/07308. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 10 January 2002. A demand for international preliminary examination was filed on 29 January 2002. The deadline for entry into the national stage in the United States was 06 January 2003 (05 January 2003 was a Sunday).

On 03 January 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 15 April 2003, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 17 October 2003, applicants filed the instant petition.

DISCUSSION

A review of the petition reveals that applicant alleges that the mailed correspondence was never received. Applicant is acting on a copy of the Notification of Missing Requirements sent to applicant on 25 September 2003, by facsimile. The petition is being treated as a nonreceipt of the office action.

The showing required to establish nonreceipt of an Office communication is set forth in the notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not Received*, 1156 O.G. 53 (Nov. 16, 1993). The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-

received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Item (1) has been satisfied. Practitioner states that the Notification of Missing Requirement was not received.

As to (2), practitioner does not state that a search of the file jacket and docket records indicates that the Office action was not received.

As to (3), practitioner must provide a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed and reference the docket record in the practitioner's statement. "For example, if a three month period for reply was set in the nonreceived Office Action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action." MPEP §711.03(c) para. II.

As applicant has not established nonreceipt of the Notification of Missing Requirements, the fee for a five month extension of time is required. The fee will be charged to deposit account no. 12-1781, as authorized.

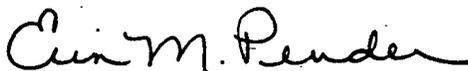
CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." No additional petition fee is required.

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt. The date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date is 17 October 2003.



Erin M. Pender
Attorney Advisor
PCT Legal Administration

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



23 JUL 2004

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David J. Alexander
ATOFina Petrochemicals
PO Box 674412
Houston, TX 77267-4412

In re Application of	:	
DEBRAS, Guy et al.	:	
Application No.: 10/332,160	:	DECISION ON
PCT No.: PCT/EP01/07308	:	
Int. Filing Date: 27 June 2001	:	PETITION
Priority Date: 05 July 2000	:	
Attorney Docket No.: 31223/84337	:	UNDER 37 CFR 1.181
For: PRODUCTION OF POLYPROPYLENE	:	
HAVING IMPROVED PROPERTIES	:	

This decision is in response to "Renewed Petition Under 37 CFR 1.181," filed in the United States Patent and Trademark Office on 12 April 2004.

BACKGROUND

On 27 June 2001, applicants filed international application PCT/EP01/07308. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 10 January 2002. A demand for international preliminary examination was filed on 29 January 2002. The deadline for entry into the national stage in the United States was 06 January 2003 (05 January 2003 was a Sunday).

On 03 January 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 15 April 2003, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 17 October 2003, applicants filed a petition under 37 CFR 1.181.

On 27 February 2004, the Office mailed Decision On Petition Under 37 CFR 1.181, dismissing applicant's petition without prejudice.

On 12 April 2004, applicants submitted the instant renewed petition under 37 CFR 1.181 by facsimile.

On 15 April 2004, applicant submitted a copy of the 12 April 2004 petition by first class mail.

DISCUSSION

The showing required to establish nonreceipt of an Office communication is set forth in the notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not Received*, 1156 O.G. 53 (Nov. 16, 1993). The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Item (1) was previously satisfied.

Items (2) and (3) have now been satisfied.

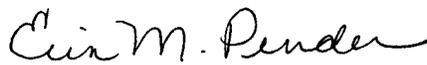
The fee for a five month extension of time will be refunded to deposit account no. 12-1781, as authorized.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is GRANTED.

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 15 April 2003 is VACATED.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date is 17 October 2003.



Erin M. Pender
Attorney Advisor
PCT Legal Administration

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/332,165	06/13/2003	Markus Hauhia	33047/258399	2577

826 7590 11/03/2006

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

EXAMINER

TSAI, CAROL S W

ART UNIT PAPER NUMBER

2857

DATE MAILED: 11/03/2006

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/07/06

TO SPE OF : ART UNIT 2857

SUBJECT : Request for Certificate of Correction on Patent No.: 7058542

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 mistakes appearing in the patent is because the originally filed claims, rather than the amended claims from the preliminary amendment filed January 3, 2003, were printed in the patent.

Marc S. Hoyt
MARC S. HOYT

SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2000

SPE

2857
Art Unit



25 JAN 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

LADAS & PERRY
224 South Michigan Avenue
Chicago, Illinois 60604

In re Application of: MILLER, Sarah, Ann, et al. :
U.S. Application No.: 10/332,184 : DECISION ON PETITION TO
PCT No.: PCT/AU01/00525 : REVIVE ABANDONED
International Filing Date: 09 May 2001 : APPLICATION UNDER 37
Priority Date: 10 May 2000 : CFR 1.137(b)
Attorney's Docket No.: CU-3036 RJS :
For: APPARATUS FOR ELECTRODEWATERING :

The petition to revive under 37 CFR 1.137(b) filed 06 January 2003 in the above-captioned application is hereby **GRANTED** as follows:

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

The 06 January 2003 submission included an executed declaration. However, this declaration is not in compliance with 37 CFR 1.497. Specifically, the declaration appears to be a compilation: two copies of the same signature page (one executed by each of the two inventors named thereon) has apparently been combined with a single copy of the first four pages of the declaration. Such compilation is impermissible (see MPEP § 201.03, page 200-7: "Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration"). Accordingly, a declaration in compliance with 37 CFR 1.497 is still required.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing Requirements indicating that a declaration in compliance with 37 CFR 1.497, and the \$130 surcharge for late filing of this declaration, are required.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
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#41

30 DEC 2005

BRUCE E. LILLING
LILLING & LILLING P.C.
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GOLDEN BRIDGE, NY 10526

In re Application of LOKTAJEVSKI :
U.S. Application No.: 10/332,188 :
PCT Application No.: PCT/EE01/00005 : DECISION
Int. Filing Date: 05 July 2001 :
Priority Date Claimed: 07 July 2000 :
Attorney Docket No.: 414/1 :
For: INTERNAL COMBUSTION ENGINE :

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 15 December 2005.

BACKGROUND

On 05 July 2001, applicant filed international application PCT/EE01/00005, which claimed priority of an earlier Estonia application filed 07 July 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 17 January 2002. A Demand for international preliminary examination, in which the United States was elected, was filed on 08 February 2002, after the expiration of nineteen months from the priority date. Accordingly, the twenty-month period for paying the basic national fee in the United States expired on 07 March 2002.

International application PCT/EE01/00005 became abandoned as to the United States for failure to timely pay the basic national fee.

On 15 December 2005, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless

previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the \$65.00 surcharge for furnishing the declaration later than the date of commencement of the national stage must be submitted.



Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

15 JUL 2003

#6



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Valerie G. Dugan
DUGAN & DUGAN, LLP
18 John Street
Tarrytown, NY 10591

In re Application of
PERLOV, Ilya
Application No.: 10/332,195
PCT No.: PCT/US01/41238
Int. Filing Date: 30 June 2001
Priority Date: 07 July 2000
Attorney Docket No.: 5232/PCT/US/BG
For: LOADLOCK CHAMBER

**DECISION
ON PAPERS FILED
UNDER 37 CFR 1.42**

This decision is in response to the declaration filed on 16 June 2003 which is treated as a submission under 37 CFR 1.42.

BACKGROUND

On 16 April 2003, a Notification of Missing Requirements was mailed indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required. A two-month time limit was set for response.

On 16 June 2003, applicant filed a declaration signed by the executrix of the deceased sole inventor, Ilya Perlov.

DISCUSSION

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

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

Applicant has furnished a declaration signed by Elana Drapkin as the executrix of deceased inventor, Ilya Perlov. However, this declaration does not meet all the requirements of 37 CFR 1.497(a) and (b).

37 CFR 1.497(a)(3) requires that the citizenship of each inventor must be listed on the declaration. 37 CFR 1.497(b)(2) also demands that the citizenship, residence, and last mailing addresses of the legal representative be recorded on the declaration.

In this case, it appears that the required information for the legal representative is provided but that the information of the deceased inventor is not.

Moreover, the declaration also does not comply with 37 CFR 1.63(c)(1) which requires the listing of the residence and mailing address of each inventor. 37 CFR 1.497(c) states that a supplemental declaration in compliance with 37 CFR 1.63 will be required in accordance with 37 CFR 1.67 if the declaration does not comply with 37 CFR 1.63.

CONCLUSION

For the reason discussed above, applicant's petition under 37 CFR 1.42 is **DISMISSED** without prejudice.

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

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


James Thomson
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PCT Legal Office

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11 DEC 2003

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www.uspto.gov

Valerie G. Dugan
DUGAN & DUGAN, LLP
18 John Street
Tarrytown, NY 10591

In re Application of :
PERLOV, Ilya :
Application No.: 10/332,195 :
PCT No.: PCT/US01/41238 :
Int. Filing Date: 30 June 2001 :
Priority Date: 07 July 2000 :
Attorney Docket No.: 5232/PCT/US/BG :
For: LOADLOCK CHAMBER :

**DECISION
ON PAPERS FILED
UNDER 37 CFR 1.42**

This decision is in response to the declaration filed on 12 September 2003 which is treated as a renewed petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 15 July 2003, a decision dismissing applicants' petition under 37 CFR 1.42 was mailed. The declaration was regarded as not to contain all of the information required by 37 CFR 1.497(a) and (b). Applicants were given two months to respond.

On 12 September 2003, applicants filed the instant response which was accompanied by another executed declaration.

DISCUSSION

The applicant submitted a new declaration signed by Elena Drapkin as the legal representative of deceased inventor, Ilya Perlov. The citizenship, residence, and mailing address of the deceased inventor and legal representative are both recorded on this declaration. This declaration complies with the requirements of 37 CFR 1.497(a) and (b) and 37 CFR 1.42.

CONCLUSION

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

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 30 June 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 12 September 2003.

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



James Thomson
Attorney Advisor
Office of PCT Legal Administration

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20 DEC 2005

THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
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PITTSBURGH, PA 15219

In re Application of HUSEMOEN et al :
U.S. Application No.: 10/332,208 :
PCT Application No.: PCT/EP01/07628 :
Int. Filing Date: 03 July 2001 : COMMUNICATION
Priority Date Claimed: 04 July 2000 :
Attorney Docket No.: 4020-022142 :
For: BINDER FOR MINERAL WOOL :
PRODUCTS :

This is in response to applicant's "Request for Corrected Filing Receipt & Corrected Notification of Acceptance" filed 22 August 2005.

The application has an International Filing Date under 35 U.S.C. 363 of 03 July 2001, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 03 January 2003.

The Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) mailed 20 June 2003 is hereby VACATED.

A corrected filing receipt is attached to this communication.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for preparation and mailing of a corrected Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) which should indicated a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) and a date of receipt of all 35 U.S.C. 371 requirements of 03 January 2003.

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

Telephone: 571-272-3303
Facsimile: 571-273-0459



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Table with 8 columns: APPL NO., FILING OR 371 (c) DATE, ART UNIT, FIL FEE REC'D, ATTY. DOCKET NO., DRAWINGS, TOT CLMS, IND CLMS. Row 1: 10/332,208, 06/06/2003, 1711, 1762, 4020-022142, 44, 2

28289
THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

CONFIRMATION NO. 3580
CORRECTED FILING RECEIPT



OC000000017682827

Date Mailed: 12/20/2005

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)

Thor Husemoen, Roskilde, DENMARK;
Erling Lennart Hansen, Gentofte, DENMARK;
Povl Nissen, Olstykke, DENMARK;

Power of Attorney:

Frederick Ziesenheim--19438 Kent Baldauf--25826
William Logsdon--22132 Barbara Johnson--31198
David Hanson--23024 Paul Reznick--33059
Robert Carrier--24219 Blynn Shideler--35034
Russell Orkin--25363 Lester Fortney--38141

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/EP01/07628 07/03/2001

Foreign Applications

EUROPEAN PATENT OFFICE (EPO) 00202335.6 07/04/2000

If Required, Foreign Filing License Granted: 03/16/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/332,208

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

BINDER FOR MINERAL WOOL PRODUCTS

Preliminary Class

528

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).



FOLEY & LARDNER
1530 PAGE MILL ROAD
PALO ALTO CA 94304

COPY MAILED

SEP 26 2005

OFFICE OF PETITIONS

In re Patent No. 6,854,830 :
Issue Date: February 15, 2005 :
Application No. 10/332,240 :
Filed: January 3, 2003 :
Attorney Docket No. 025219-420 :

ON PETITION

This is a decision on the petition filed May 11, 2005, 37 CFR 3.81(b)¹ to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is granted.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3208. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

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

¹See Official Gazette of June 22, 2004



COHEN, PONTANI, LIEBERMAN
& PAVANE LLP
551 FIFTH AVENUE
SUITE 1210
NEW YORK NY 10176

COPY MAILED

JAN 04 2010

In re Patent No. 7,375,377 :
Issue Date : May 20, 2009 :
Application No. 10/332,244 : ON PETITION
Filed: August 28, 2003 :
Attorney Docket No. 5367-2PUS :

This is a decision on the petition, filed September 14, 2009, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

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

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

The request under 37 CFR 3.81(b) was not accompanied by a statement that the assignment was submitted for recordation before issuance of the patent. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

¹ See MPEP 1309, subsection II and Official Gazette of June 22, 2004

The petition fee of \$130 has been charged to Deposit Account No. 03-2412.

Inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

A handwritten signature in black ink, appearing to read "Thurman K. Page". The signature is fluid and cursive, with a large initial "T" and "P".

Thurman K. Page
Petitions Examiner
Office of Petitions



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

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OCT 25 2005

OFFICE OF PETITIONS

In re Application of :
Stephen Neidle et al :
Application No. 10/332,261 : DECISION GRANTING PETITION
Filed: April 4, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 620-230 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 22, 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 1626 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.


Frances Hicks
Petitions Examiner
Office of Petitions

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

22 JAN 2004



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G. Franklin Rothwell
ROTHWELL, FIGG, ERNST & MANBECK
1425 K. Street, Suite 800
Washington, D.C. 20005

In re Application of:	:	
Raso	:	
Application No.: 10/332,269	:	
PCT No.: PCT/EP01/07689	:	DECISION UNDER
International Filing Date: 07 July 2001	:	37 CFR 1.181
Priority Date: 07 July 2000	:	
For: PROMOTIONAL ITEM FOR	:	
DISTRIBUTION WITH A COMMERCIAL	:	
PRODUCT	:	

This is a decision in response to applicant's letter "REQUEST FOR CORRECTION OFFICIAL FILING RECEIPT AND NOTICE OF ACCEPTANCE" filed 12 May 2003, and a Petition to the Director under 37 CFR 1.181 faxed to the PCT Legal Office on 12 December 2003 for Corrected Filing Receipt and Notice of Acceptance originally filed on 11 June 2003.

Specifically, applicant's request (1) that the foreign application: Italy TO2000A000683 and (2) that the priority date 07/07/2000 be inserted.

A review of the application file reveals that both changes (1) and (2) should be made as requested and is contained on the corrected filing receipt attached hereto.

Applicant's petition under 37 CFR 1.181 is **GRANTED** to the extent indicated above and a corrected filing receipt is attached hereto.


 Shih-yung Hsieh
 PCT Legal Detailee
 PCT Legal Office
 Telephone: (703) 308-6162
 Facsimile: (703) 308-6459


 Richard Cole
 PCT Legal Examiner
 PCT Legal 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
10/332,269	05/12/2003	3622	1030	1729-413	5	12	1

CONFIRMATION NO. 3524

06449
ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

CORRECTED FILING RECEIPT



OC000000011746213

Date Mailed: 01/22/2004

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

Applicant(s)

Gianfranco Raso, Monaco, MONACO;

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/EP01/07689 07/05/2001

Foreign Applications

ITALY TO2000A000683 07/07/2000

If Required, Foreign Filing License Granted: 01/22/2004

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Promotional item for distribution with a commercial product

Preliminary Class

**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).



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

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JUN 25 2007

In re Application of :
Hennequin :
Application No. 10/332,274 :
Filed: January 7, 2003 :
Attorney Docket No. 056291-5132 :

OFFICE OF PETITIONS
ON PETITION

This is a decision on the petition, filed June 19, 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 June 5, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the Issue fee required by the new Notice of Allowance.¹

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

The examiner of Technology Center AU 1624 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).



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

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APR 1 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Laurent Francois Andre Hennequin	:	
Application No. 10/332274	:	
Filing or 371(c) Date: 01/07/2003	:	ON PETITION
Attorney Docket Number:	:	
056291-5132	:	

This is a decision on the “Combined Petition to Expunge and for Expedited Consideration of Petition”, filed August 3, 2007. The petition to expunge is properly treated under 37 C.F.R. § 1.59, and the petition for expedited consideration of the petition to expunge is properly treated under 37 C.F.R. § 1.182. The Decision on the petition under 37 CFR 1.182 is being mailed under separate cover.

The Petition under 37 C.F.R. § 1.59 is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled “Request for Reconsideration of Petition under [insert the applicable code section]”. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Petitioner files the present petition to expunge inadvertently submitted continuation papers.

The MPEP 724.05(II), Information Unintentionally Submitted in Application, provides

A petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) may be filed under 37 CFR 1.59(b), provided that:

(A) the Office can effect such return prior to the issuance of any patent on the application in issue¹;

¹ The Office will not return the documents from the physical file because it is the Office’s policy not to remove papers from files that have been scanned. The Office will, however, “close” the images in the application or patent that was the subject of the petition, so that no information about the recorded document will appear when someone searches for that application or patent number in the electronic file.

(B) it is stated that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;

(C) the information has not otherwise been made public;

(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;

(E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and

(F) the petition fee as set forth in 37 CFR 1.17(g) is included.

The present petition lacks items (B), (C), and (D). Petitioner has failed to state that the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted; Petitioner has failed to state that the information has not otherwise been made public, and Petitioner has failed to commit to retain such information for the period of any patent with regard to which the information was submitted.

The petition is dismissed without prejudice. Petitioner should file a request for reconsideration of the petition and include the necessary statements.

Petitioner's deposit account has been charged the petition fee as provided in the Petition.

The application file is referred to Publishing Division for processing into a patent in due course.

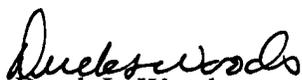
Further correspondence with respect to this matter should be addressed as follows:

By mail: Director 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



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FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN, TX 78701

Mail Date: 04/21/2010

Applicant : Nathaly Vassal : DECISION ON REQUEST FOR
Patent Number : 7608207 : RECALCULATION of PATENT
Issue Date : 10/27/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/332,287 : OF WYETH AND NOTICE OF INTENT TO
Filed : 07/25/2003 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **269** 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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NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

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DEC 19 2006
OFFICE OF PETITIONS

In re Application of	:	
BURKE, et al.	:	
Application No. 10/332,296	:	DECISION ON PETITION
Filed: June 06, 2003	:	TO WITHDRAW
Attorney Docket No. 02157.0002U1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 10, 2006.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272- 6825.


Patricia Volpe
Petitions Examiner
Office of Petitions

cc: WILLIAM E. HICKMAN
SHELL OIL COMPANY
910 LOUISIANA, ROOM 4786
HOUSTON, TX 77002



Ballard Spahr Andrews & Ingersoll, LLP
SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30309-3915

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OCT 14 2008

OFFICE OF PETITIONS

In re Application of :
Burke et al. :
Application No. 10/332296 :
Filing or 371(c) Date: 06/06/2003 : ON PETITION
Attorney Docket Number: :
02157.0002U1 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 23, 2008, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

Background

A final Office action was mailed June 7, 2006. Applicant filed a Notice of Appeal on October 16, 2006, and thereafter timely filed an appeal brief on December 11, 2006. The appeal brief was non-compliant. Applicant was so notified in a Notice of Non-Compliant Appeal Brief (Notice), mailed January 24, 2007. The Notice set a one (1) month period for reply from the mail date of the Office action. Applicant filed an Appeal Brief in response to the Notice on February 5, 2007; however, the response was also noncompliant. Applicant was so notified in the Notice of Non-Compliant Appeal Brief (Notice), mailed June 7, 2007. Applicant filed an Appeal Brief in response to the Notice on July 30, 2007; however, the response was also noncompliant. Applicant was so notified in the Notice of Non-Compliant Appeal Brief (Notice), mailed November 15, 2007. No timely and properly having been received, and no claims having been allowed, the appeal was dismissed and the application became abandoned on September 7, 2006¹.

The present petition

Applicant files the present request for reconsideration and an Appeal Brief. The Examiner has approved the Appeal Brief.

¹ The MPEP, 1205.02, provides that the appeal will be dismissed if the appellant does not timely file an amended brief, or files an amended brief which does not overcome all the reasons for noncompliance of which the appellant was notified.

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 is filed with the present petition; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

The Examiner has approved the Appeal Brief.

Accordingly, the petition is granted. Accord MPEP 1215.04. The application is being referred to Technology Center Art Unit 3679 for processing of the Appeal Brief.

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions



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KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant : Roland Stoughton : DECISION ON REQUEST FOR
Patent Number : 7657379 : RECALCULATION of PATENT
Issue Date : 02/02/2010 : TERM ADJUSTMENT IN VIEW
Application No : 10/332,305 : OF WYETH AND NOTICE OF INTENT TO
Filed : 09/24/2003 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **851** 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.

28 SEP 2004

#7



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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Stacy L. Taylor
Foley & Lardner
P.O. Box 80278
San Diego, CA 92138-0278

In re Application of	:	
Tuszynski	:	
Application No. 10/332,306	:	DECISION ON
PCT No.: PCT/US01/16122	:	
Int. Filing Date: 17 May 2001	:	PETITION UNDER
Priority Date: 19 July 2000	:	
Atty. Docket No.: 041673-2106	:	37 CFR 1.137(b)
For: Methods For Therapy Of Neuro-	:	
degenerative Disease Of The Brain	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 23 August 2004.

BACKGROUND

This international application was filed on 17 May 2001, claimed an earliest priority date of 19 July 2000, and designated the U.S. A Demand electing the U.S. was filed prior to the elapse of 19 months from the priority date. The 30 month time period for paying the basic national fee in the United States expired at midnight on 19 January 2003. On 06 January 2003, applicant filed *inter alia* the basic national fee.

On 19 August 2003, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant, requiring the submission of an executed oath or declaration of the inventors.

On 19 July 2004, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicant, indicating that this international application had become abandoned with respect to the national stage in the U.S. for failure to timely reply to the Notification of Missing Requirements.

DISCUSSION

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

Regarding requirement (1), the required reply is an executed oath or declaration of the inventor which complies with 37 CFR 1.497(a) and (b). The petition is accompanied by a signed declaration, but this declaration is not acceptable because it does not provide his citizenship information, and because neither the declaration itself nor an application data sheet provides his residence information. Therefore, this declaration does not constitute an appropriate "required reply," and so requirement (1) has not been satisfied.

Regarding requirement (2), the petition fee accompanied the petition.

Regarding requirement (3), the petition includes an appropriate statement.

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

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


Richard Cole
PCT Legal Examiner
PCT Legal Office


George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
After 30 Sep. 2004: (571) 272-3283
Fax: (703) 308-6459
After 30 Sep. 2004: (571) 273-0459



Stacy L. Taylor
Foley & Lardner
P.O. Box 80278
San Diego, CA 92138-0278

In re Application of	:	
Tuszynski	:	
Application No. 10/332,306	:	DECISION ON
PCT No.: PCT/US01/16122	:	
Int. Filing Date: 17 May 2001	:	PETITION UNDER
Priority Date: 19 July 2000	:	
Atty. Docket No.: 041673-2106	:	37 CFR 1.137(b)
For: Methods For Therapy Of Neuro-	:	
degenerative Disease Of The Brain	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 17 March 2005.

DISCUSSION

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

In a decision mailed on 28 September 2004, the previous petition (filed on 23 August 2004) was dismissed without prejudice because

Regarding requirement (1), the required reply is an executed oath or declaration of the inventor which complies with 37 CFR 1.497(a) and (b). The petition is accompanied by a signed declaration, but this declaration is not acceptable because it does not provide his citizenship information, and because neither the declaration itself nor an application data sheet provides his residence information. Therefore, this declaration does not constitute an appropriate "required reply," and so requirement (1) has not been satisfied.

The instant renewed petition includes an executed declaration of the inventor, which includes his citizenship, residence and postal address information. However, inspection of the declaration reveals that it executed application no. 10/322,306, rather than the instant application. As such, this declaration does not constitute an acceptable "required reply."

Accordingly, it would not be appropriate to grant the requested relief at this time.

DECISION

The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a)

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



Leonard Smith
PCT Legal Examiner
PCT Legal Office



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

29 SEP 2005

#11



United States Patent and Trademark Office

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

Stacy L. Taylor
Foley & Lardner
P.O. Box 80278
San Diego, CA 92138-0278

In re Application of	:	
Tuszynski	:	
Application No. 10/332,306	:	DECISION ON
PCT No.: PCT/US01/16122	:	
Int. Filing Date: 17 May 2001	:	PETITION UNDER
Priority Date: 19 July 2000	:	
Atty. Docket No.: 041673-2106	:	37 CFR 1.137(b)
For: Methods For Therapy Of Neuro- degenerative Disease Of The Brain	:	

This is in response to the renewed petition under 37 CFR 1.137(b) filed on 09 May 2005.

DISCUSSION

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

In a decision mailed on 08 April 2005, the previous petition (filed on 17 March 2005) was dismissed without prejudice because

The instant renewed petition includes an executed declaration of the inventor, which includes his citizenship, residence and postal address information. However, inspection of the declaration reveals that it executed application no. 10/322,306, rather than the instant application. As such, this declaration does not constitute an acceptable "required reply." Accordingly, it would not be appropriate to grant the requested relief at this time.

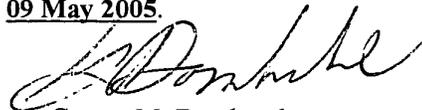
The instant renewed petition includes an executed declaration of the inventor which is in compliance with the requirements of 37 CFR 1.497(a) and (b). This satisfies the "required response" requirement of 37 CFR 1.137(b). As such, it would now be appropriate to grant the petition under 37 CFR 1.137(b).

DECISION

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

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **09 May 2005**.


Boris Milef
PCT Legal Examiner
PCT Legal Office


George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
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20 AUG

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Duane C. Ulmer
The Dow Chemical Company
Intellectual Property
PO Box 1967
Midland, MI 48641-1967

In re Application of :
VAN DER WAL, Hanno R. et al. :
Application No.: 10/332,310 :
PCT No.: PCT/US01/15646 :
Int. Filing Date: 15 May 2001 :
Priority Date: 16 May 2000 :
Docket No.: 60833A :
For: POLYURETHANES CONTAINING :
DISPERSED CRYSTALLINE :
POLYESTERS :

DECISION
ON PETITION UNDER
37 CFR 1.137(b)

Applicant's "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 06 January 2003 is **GRANTED**.

Applicant states "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a)-(b) has been submitted. The fee for late filing of the oath or declaration will be charged to deposit account no. 04-1512, as authorized.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 06 January 2003 under 35 U.S.C. §371.

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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



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ALEXANDRIA, VA 22313-1450
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JUN 2 2005

William Collard
Collard & Roe, P.C.
1077 Northern Boulevard
Roslyn, NY 11576

In re Application of
Hugo Weber
Application No. 10/332,322
Filed: January 7, 2003
For: ROOF COVERING

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 March 9, 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 July 7, 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: 4/28/05

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600



28 AUG 2003

Teresa J. Welch
Michael Best & Friedrich LLP
One South Pinckney Street
PO Box 1806
Madison, WI 53701-1806

In re Application of :
Gray :
US Application No.: 10/332,329 :
PCT Application No.: PCT/AU01/00286 :
International Filing Date: 15 March 2001 :
Priority Date: 15 March 2000 :
Attorney's Docket No.: 046375-9002 :
For: PROCESS FOR FORMING A :
THREADED MEMBER :

**DECISION ON
PETITION FOR REVIVAL
UNDER 37 CFR 1.137(b)**

The petition to revive under 37 CFR 1.137(b), filed on 7 January 2003 in the above-captioned application, is hereby **GRANTED** as follows.

On 15 March 2001, Applicant filed international application PCT/AU01/00286, which claimed priority of an earlier application filed on 15 March 2000. A copy of the international application was communicated from the International Bureau to the USPTO on 20 September 2001. A demand for international preliminary examination, in which the United States was elected, was filed on 15 October 2001, the end of the 19-month period from the 15 March 2000 priority date. The period for paying the basic national fee is thus 30 months and ended at midnight on 15 September 2002.

The basic national fee was not paid on or before September 16, 2002 (Monday). The international application became abandoned as to the United States on September 16, 2002.

The instant petition encloses, *inter alia*:

- (1) A transmittal letter for entry into the national stage in the United States (Form PTO-1390), accompanied by a \$520 payment toward the \$530 basic national fee (small entity) required by 35 U.S.C. 371(c)(1) and 37 CFR 1.492(a)(3), and an authorization for the USPTO to charge the \$10 deficiency to Deposit Account No. 50-0842;
- (2) The \$650 petition fee (small entity);

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

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

In view of the above, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the national stage in the United States of America.

A review of the declaration submitted with the instant petition reveals that it complies with 37 CFR 1.497(a) and (b). Applicant has met the requirements of 37 CFR 1.495 for acceptance into the national stage under 35 U.S.C. 371(c). Consequently, the application has an international filing date of 15 March 2001, and a 35 U.S.C. 371 date of 7 January 2003.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing.



Richard Cole
PCT Legal Examiner
PCT Legal Office



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

15 JAN 2004



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Glenn E.J. Murphy
Henkel Corporation Law Department
2500 Renaissance Blvd. Suite 200
Gulph Mills, PA 19406

In re Application of	:	
NITSCH et al.	:	
Application No.: 10/332,332	:	DECISION
PCT No.: PCT/EP01/07334	:	
Int. Filing Date: 27 June 2001	:	
Priority Date: 07 July 2000	:	
Attorney Docket No.: H4753PCT/US	:	
For: DISHWASHER AGENT WITH ADDITIONAL USES	:	

This is a response to applicants' "Petition under 37 CFR 1.8(b)" filed 15 September 2003.

BACKGROUND

On 27 June 2001, applicants filed international application PCT/EP01/07334 which claimed a priority date of 17 July 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 17 January 2002. A Demand was filed with the International Preliminary Examining Authority prior to the 19th month from the earliest claimed priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America expired at midnight on 07 January 2003.

On 07 January 2003, applicants filed a Transmittal Letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *inter alia*, the requisite basic national fee of \$890 and an English translation of the international application.

On 21 April 2003, the United States Designated/Elected Office mailed a Notification of Missing Requirements (PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge under 37 CFR 1.492(e).

On 15 September 2003, applicants filed "Petition under 37 CFR 1.8(b)" which was accompanied by: a copy of "Response to Notification of Missing Requirements under 35 U.S.C. 371;" an executed declaration in compliance with 37 CFR 1.497; and petitioner's facsimile confirmation report. Petitioner alleges that the executed declaration was submitted by facsimile on 06 May 2003.

DISCUSSION

A review of the application file reveals that the original declaration allegedly filed 06 May 2003 under 37 CFR 1.8 is not located in the application file.

37 CFR 1.8(b) states,

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit 's report confirming transmission may be used to support this statement.

The evidence filed with the present petition is convincing that the 06 May 2003 response included a declaration with a certificate of facsimile transmission. Additionally, applicant has: (1) informed the Office of the previous mailing of the correspondence promptly after becoming aware that the Office did not receive the items facsimiled on 06 May 2003, (2) supplied copies of the previously mailed correspondence; and (3) has provided a copy of the sending unit 's report confirming transmission on 06 May 2003. The declaration submitted on 15 September 2003 will considered as timely response to the Notification of Missing Requirements mailed 21 April 2003; however, the declaration will be given a receipt date of 15 September 2003. (See 37 CFR 1.8(a))

CONCLUSION

Therefore, applicants' petition under 37 CFR 1.8(b) is GRANTED.

A review of the application papers reveals that applicant completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 27 June 2001 and a date of 15 September 2003 under 35 U.S.C. 371.

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



Anthony Smith

Attorney-Advisor

Office of PCT Legal Administration

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**JOSEPH S TRIPOLI
THOMSON MULTIMEDIA LICENSING INC
PATENT OPERATIONS CN 5312
PRINCETON NJ 08543-0028**

COPY MAILED

SEP 29 2009

OFFICE OF PETITIONS

In re Application of :
Lucien GRAEF et al. :
Application No. 10/332,339 :
Filed: January 06, 2003 :
Attorney Docket No. PF000069 :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 25, 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, July 25, 2007, which set a shortened statutory period for reply of three (3) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 26, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment (2) the petition fee of \$1,620.00 and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of July 25, 2007 is accepted as having been unintentionally delayed.

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

The application is being referred to the Technology Center AU 2623 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions



JGJR.: 08-07

Paper No: __

COPY MAILED

SEP 04 2007

OFFICE OF PETITIONS

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

In re Application of	:	
Colard	:	DECISION
Application No.: 10/332,343	:	
Filing Date: 8 January, 2003	:	
Attorney Docket No. SEITBO026	:	

This is a decision on the petitions filed on 8 and 13 December, 2006, to withdraw the holding of abandonment and considered under 37 C.F.R. §1.181.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.¹

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

NOTES:

- (1) 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. The

¹ **NOTE:** Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181. ,

reconsideration request should include a cover letter entitled “Renewed Petition under 37 C.F.R. §1.181.”

(If Petitioner is unable to present even a satisfactory showing to support a petition under 37 C.F.R. §1.137(a), and Petitioner’s only alternative will be to file a petition under 37 C.F.R. §1.137(b).)

(2) Thereafter, there will be no further reconsideration of this matter.²

BACKGROUND

The record reflects that:

- Petitioner (former Counsel) failed to reply timely and properly to the ex parte Quayle action mailed on 6 May, 2004, with reply due absent an extension of time on or before 6 July, 2004;
- the application went abandoned by operation of law after midnight on 6 July, 2004;
- the Office mailed the Notice of Abandonment on 16 November, 2004;
- on 13 December, 2006, Petitioner filed the instant petition, and averred therein, *inter alia*, non-receipt of the Office action in question, and further that the Office mailed the Office action in question to the wrong address, and provided therewith a copy of the transmittal letter on filing, however, Petitioner provided no copy of a date-stamped receipt card (see: MPEP §503³) evidencing receipt by the Office of the Change of Address averred to have

² For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Loudon, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R. §§1.181, 182, 183.

³ MPEP §503 provides in pertinent part:
§503 Application Number and Filing Receipt

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). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard

been filed with the initial deposit of the application—notably, the oath/declaration filed herein by Petitioner clearly evidences instruction to mail correspondence to the address to which the Office action and question and other such papers—including the Notice of Abandonment—were mailed;

- moreover, Petitioner failed to file the instant petition timely under the rule, and filed no Status Inquiry between the January 2003 submission date and the filing of the instant petition.

The transmittal letter does not state a correspondence address, while the oath/declaration clearly sets forth a mailing address for Petitioner, and there is no Change of Address filed of record with the application on original submission, notwithstanding the averment of Petitioner—which, as discussed above—is not supported by a date-stamped receipt card. (See also: 37 C.F.R. §1.33 and Manual of Patent Examining Procedure (MPEP) §601.03.)

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office 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.⁴

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.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

⁴ 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

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).⁵

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

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 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]

⁵ 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.

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.⁶

Delays in responding properly raise the question whether delays are unavoidable.⁷ 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).⁸

And the Petitioner must be diligent in attending to the matter.⁹ 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.¹⁰))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.¹¹

The commentary at MPEP §711.03(c) provides:

* * *

**A. Petition To Withdraw Holding of Abandonment Based on Failure To
Receive Office Action**

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the

⁶ 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.

⁷ 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).

⁸ See: *In re Application of G*, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

⁹ 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*.

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.

¹¹ See: *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971).

Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

* * *

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)

* * *

Moreover, the regulation places upon Petitioner a diligence requirement to seek relief within two (2) months of the act complained of.

It appears that Petitioner has not satisfied the showing required or the timing requirement under the rule.

CONCLUSION

Because it appears that Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37.C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Petitioner may wish to file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply (the amendment), the petition fee, and a statement that “the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.” (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:¹²

By mail: Commissioner for Patents¹³
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
 (571) 273-8300
 ATTN.: Office of Petitions

¹² On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information, see: <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf>.)

¹³ To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2¹⁴) 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

¹⁴ 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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MAR 1 2 2008

OFFICE OF PETITIONS

BROWDY AND
NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

In re Application of
Colard
Application No.: 10/332,343
Filing Date: 8 January, 2003
Attorney Docket No. SEITBO026
:

:
:
:
:
:

DECISION

This is a decision on the petitions filed on 19 September, 2007, to revive the instant 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.

For the reasons set forth below the petition under 37 C.F.R. §1.137(b) 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. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(b)."

BACKGROUND

The record reflects that:

- first Petitioner (former Counsel) failed to reply timely and properly to the ex parte Quayle action mailed on 6 May, 2004, with reply due absent an extension of time on or before 6 July, 2004;
- the application went abandoned by operation of law after midnight 6 July, 2004;
- the Office mailed the Notice of Abandonment on 16 November, 2004;
- on 13 December, 2006, first Petitioner filed the original petition to withdraw the holding of abandonment—considered under 37 C.F.R. §1.181—and averred therein, *inter alia*, non-receipt of the Office action in question, and further that the Office mailed the Office action in question to the wrong address, and provided therewith a copy of the transmittal letter on filing, however, Petitioner provided no copy of a date-stamped receipt card (see: MPEP §503) evidencing receipt by the Office of the Change of Address averred to have been filed with the initial deposit of the application—notably, the oath/declaration filed herein by Petitioner clearly evidences instruction to mail correspondence to the address to which the Office action in question and other such papers—including the Notice of Abandonment—were mailed, and Petitioner failed to file the original petition timely under the rule, and filed no Status Inquiry between the January 2003 submission date and the filing of the original petition; the petition was dismissed on 4 September, 2007;
- second Petitioner (new Counsel) filed the instant petition (with fee), a reply in the form of an amendment and made a statement of unintentional delay.

It is noted, however, that as of this writing it is not apparent that the person signing the statement of unintentional delay in fact was in a position to have firsthand/direct knowledge of the facts and circumstances of the delay at issue—moreover, at this writing the petition contains no affirmative statement to the effect that Petitioner has made the requisite reasonable inquiry to ascertain the facts and circumstances of such delay—particularly delays of twenty-nine (29) months between abandonment and petition and twenty-five (25) months between Notice of Abandonment and petition.

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.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who

Application No.: 10/332,343

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 AND ANALYSIS

In General

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).²

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.³

Delays in responding properly raise the question whether delays are unavoidable.⁴ Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).⁵

And the Petitioner must be diligent in attending to the matter.⁶ Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

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).

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.

Application No.: 10/332,343

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.⁷))

As to Extended Delay

There are three periods to be considered during the evaluation of a petition under 37 C.F.R. §1.137(b):

- (1) the delay in reply that originally resulted in the abandonment;
- (2) the delay in filing an initial petition to return the application to pending status; and
- (3) the delay in filing a grantable petition pursuant to 37 C.F.R. §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 revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

⁷ Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one’s attention and the mail is not timely deposited for shipment.

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.”⁸

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 C.F.R. §1.137(b)(§3) provides that a petition under 37 C.F.R. §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 C.F.R. §1.137(b).⁹ Here, in view of the inordinate delay seeking to resume 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 C.F.R. §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.

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, then-Counsel of Record at the time of abandonment, must explain why this application became abandoned while it was under their control and what efforts were made to further reply of itself and with whom this matter was discussed.

Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), and whoever else was involved with this application at the time of abandonment.

Statements are required from any and all persons then the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action.

⁸ See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71.

⁹ See: *In re Application of G*, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

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.¹⁰

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 C.F.R. §1.137(b).¹¹ The language of both 35 U.S.C. §41(a)(7) and 37 C.F.R. §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.¹² The December 1997 change to 37 C.F.R. §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 application¹³. 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.¹⁴

Statements are required from any and all persons then 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

¹⁰ 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).

¹¹ See: MPEP 711.03(c).

¹² 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”).

¹³ See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over _____ years) could trigger, as here, a request for additional information.

¹⁴ 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.

(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 C.F.R. §1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application.¹⁵

As to Allegations
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a proper reply, a statement/showing of unintentional delay, and—where appropriate—a terminal disclaimer and fee.

As indicated above, Petitioner has failed to satisfy the statement/showing requirement under the regulation. Petitioner should address this matter in light of the guidance provided in the Commentary at MPEP §711.03(c)(II)(C) and (C)(1), and must provide documentary support including but not limited to "correspondence relative to the period of delay" and other showings as discussed above.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) is **dismissed**.

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

¹⁵ See: 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).

By FAX: Centralized Facsimile Number
 (571) 273-8300

By EFS: Correspondence regarding this decision may also be filed through the
 electronic filing system (EFS) of the USPTO.

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. §1.2¹⁶) 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

¹⁶ 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.



BROWDY AND
NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

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NOV 17 2008
OFFICE OF PETITIONS

In re Application of :
Colard :
Application No. 10/332,343 : DECISION
Filed: 8 January, 2003 :
Attorney Docket No. SEITBO026/COLARD1 :

This is a decision on the petition, filed on 12 May, 2008, considered as a petition under 37 C.F.R. §1.137(b) to revive the application as having been abandoned due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to 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.)

BACKGROUND

The record reflects that:

First Petitioner (former Counsel) failed to reply timely and properly to the *ex parte Quayle* action mailed on 6 May, 2004, with reply due absent an extension of time on or before 6 July, 2004.

The application went abandoned by operation of law after midnight 6 July, 2004.

The Office mailed the Notice of Abandonment on 16 November, 2004.

On 13 December, 2006, first Petitioner (former Counsel) filed the original petition (to withdraw the holding of abandonment—considered under 37 C.F.R. §1.181)—and averred therein, *inter alia*, non-receipt of the Office action in question, and further that the Office mailed the Office action in question to the wrong address, and provided therewith a copy of the transmittal letter on filing, however, Petitioner provided no copy of a date-stamped receipt card (see: MPEP §503) evidencing receipt by the Office of the Change of Address averred to have been filed with the initial deposit of the application—notably, the oath/declaration filed herein by Petitioner clearly evidenced instruction to mail correspondence to the address to which the Office action in question and other such papers—including the Notice of Abandonment—were mailed, and Petitioner failed to file the original petition timely under the rule, and filed no Status Inquiry between the January 2003 submission date and the filing of the original petition; thus, the petition was dismissed on 4 September, 2007.

Second Petitioner (new Counsel) filed the petition (with fee) under 37 C.F.R. §1.137(b) and averring unintentional delay, a reply in the form of an amendment and made a statement of unintentional delay. It was noted at that time, however, it was not apparent that the person signing the statement of unintentional delay in fact was in a position to have firsthand/direct knowledge of the facts and circumstances of the delay at issue—moreover, the petition contained no affirmative statement to the effect that Petitioner had made the requisite reasonable inquiry to ascertain the facts and circumstances of such delay—particularly delays of 29 months between abandonment and petition and 25 months between Notice of Abandonment and petition. As a result, the petition was dismissed on 12 March, 2008.

The instant petition was filed on 12 May, 2008, and included statements from the original counsel as well as a representative of the averred assignee regarding the nature of the delay.

The record (including the petition filed on 12 May, 2008) does not necessitate a finding that the delay between midnight 6 July, 2004 (the date of abandonment), and 12 May, 2008 (the date of filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner and former Counsel William A. Drucker (Reg. No. 17,951) and Ms. Mi-Gyoung Agrofoglio, the representative of the averred assignee, when accepting Petitioner's representation that the delay in filing the response was unintentional.¹

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.²

¹ See: Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

² See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88

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.

As to Allegations of
Unintentional Delay

The requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center/AU 2863 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the Technology Center/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2³) 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./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

³ 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
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SUITE 800
WASHINGTON DC 20037

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FEB 12 2007

OFFICE OF PETITIONS

In re Application of :
Kenichi Maruhashi et al :
Application No. 10/332,348 : DECISION GRANTING PETITION
Filed: April 10, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. Q73644 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 20, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of May 23, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Patent Publication.

Karen Creasy
Karen Creasy
Petitions Examiner
Office of Petitions

13 MAR 2003



UNITED STATES PATENT AND TRADEMARK OFFICE

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Adriane M. Antler
Pennie & Edmonds LLP
1155 Avenue of Americas
New York, New York 10036-2711

In re Application of :
STOUGHTON et al. :
Application No.: 10/332,352 :
PCT No.: PCT/US01/20931 : **DECISION ON PETITION**
International Filing Date: 02 July 2001 :
Priority Date: 05 July 2000 :
Attorney's Docket No.: 9301-062 :
For: METHODS FOR GENETIC :
INTERPRETATION AND PREDICTION OF :
PHENOTYPE :

This is a decision on applicants' "Petition under 37 CFR 1.10(d) to Correct Filing Date to Accord with U.S.P.S. Deposit Date" filed 19 February 2003, which is being treated as a petition under 37 CFR 1.10(c). No petition fee is required.

BACKGROUND

The application file includes a transmittal letter for entry into the national stage in the United States filed by applicants and date stamped as received in the Patent and Trademark Office on January 7, 2003, accompanied by, inter alia, the basic national fee, a copy of the international application; a copy of the written opinion; a copy of the international search report; and an unexecuted declaration.

On 19 February 2003, applicants filed present petition requesting that the filing date of the national stage papers be corrected from January 7, 2003 to January 6, 2003.

DISCUSSION

Applicants are requesting that the receipt date for the transmittal letter requesting immediate examination and the national stage application papers are corrected to indicate the correct date on which the transmittal letter for entry into the national stage in the United States and accompanying papers were filed, i.e., 06 January, 2003. A copy of the Customer Copy of the "Express Mail" label No. EL500577596US filed with the petition bears a "Date In" which is illegible, however, the United States Postal Service stamp by the Grand Central Station in New York, New York, clearly bears a date of 06 January 2003. The same Express Mail label number was placed on the transmittal letter itemizing the accompanying papers located in the application file that was date stamped as received in the PTO on 07 January 2003. Thus, there is a clear discrepancy between the filing date

accorded by the PTO and the date of deposit as shown by the Customer Copy of the "Express Mail" label.

The evidence submitted by petitioner is sufficient to establish that on 06 January 2003 the United States Designated/Elected Office (DO/EO/US) received national stage application papers for this application including the basic national fee.

CONCLUSION

The Petition under 37 CFR 1.10(c) is **GRANTED**.

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



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



Track & Confirm

Shipment History

You entered EL50 0577 596U S

Your item was delivered at 11:14 am on January 07, 2003 in WASHINGTON, DC 20231 to PATENT OFFICE 20231. The item was signed for by D HOLLOWAY.

Here is what happened earlier:

- ARRIVAL AT UNIT, January 07, 2003, 10:38 am, WASHINGTON, DC 20599
- ACCEPTANCE, January 06, 2003, 9:39 pm, NEW YORK, NY 10150

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Ware, Fressola, Van der Sluys
& Adolphson LLP
Bradford Green, Building Five
755 Main Street, PO Box 224
Monroe, CT 06468

In re Application of :
Einarsson :
US Application No.: 10/332,361 :
PCT Application No.: PCT/IB01/00053 :
International Filing Date: 19 January 2001 :
Priority Date: 21 January 2000 :
Attorney's Docket No.: 508-069.002 :
For: OCULAR DEVICE :

**DECISION ON
PETITION FOR REVIVAL
UNDER 37 CFR 1.137(b)**

The petition to revive under 37 CFR 1.137(b), filed on 6 January 2003 in the above-captioned application, is hereby **GRANTED** as follows.

On 19 January 2001, Applicant filed international application PCT/IB01/00053, which claimed priority of an earlier application filed on 21 January 2000. A copy of the international application was communicated from the International Bureau to the USPTO on 26 July 2001. A Demand for International Preliminary Examination was filed on 14 August 2001, prior to 21 August 2001, when the 19th month from the 21 January 2000 priority date would expire. The period for paying the basic national fee is thus 30 months and ended at midnight on 21 July 2002.

The basic national fee required by 37 CFR 1.495(b) was not submitted on or before 22 July 2002 (Monday). The international application became abandoned as to the United States on 22 July 2002.

The instant petition encloses, *inter alia*:

- (1) A transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371, accompanied by a check in the amount of \$1,085 wherein \$435 was applied toward the \$450 basic national fee (small entity) required by 35 U.S.C. 371(c)(1) and 37 CFR 1.492(a)(5), and an authorization to charge the \$15 deficiency to Deposit Account No. 23-0442;
- (2) The \$650 petition fee (small entity);

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

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

The \$65 surcharge (small entity) for filing the declaration later than 30 months from the priority date will be charged to Deposit Account No. 23-0442.

In view of the above, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the national stage in the United States of America.

A review of the declaration submitted with the petition reveals that it complies with 37 CFR 1.497(a) and (b). Applicant has met the requirements of 37 CFR 1.495 for acceptance into the national stage under 35 U.S.C. 371(c). Consequently, the application has an international filing date of 19 January 2001, and a 35 U.S.C. 371 date of 6 January 2003.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing.



Leonard Smith
PCT Legal Examiner
PCT Legal Office



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

Request for Legal Staff Consideration

Serial No. 10/332361

Date 01 Aug. 2003

Request: Petition to Revoke.

Requestor: Christine Washington

Supervisor: Cathy Short

Response: _____

By: _____

Date _____



18 NOV 2004

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Roger L Browdy
Browdy and Neimark
Suite 300
624 Ninth Street, NW
Washington, DC 20001

In re Application of
SOTO-JARA, Claudia
Application No.: 10/332,370
PCT No.: PCT/GB01/02584
Int. Filing Date: 13 June 2001
Priority Date: 07 July 2000
Attorney Docket No.: SPTP-JARA2
For: EARLY DIAGNOSIS OF
CONFORMATIONAL DISEASES

DECISION ON
PETITION
UNDER 37 CFR 1.181

This decision is in response to "Petition to Withdraw Holding of Abandonment," filed with the United States Patent and Trademark Office on 09 September 2004.

BACKGROUND

On 13 June 2001, applicant filed international application PCT/GB01/02584, claiming a priority date of 07 July 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 17 January 2002. A demand for international preliminary examination was filed on 31 January 2002. The deadline for entry into the national stage in the United States was 07 January 2003.

On 07 January 2003, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 29 July 2003, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and additional claim fees were required.

On 12 July 2004, applicant submitted a status inquiry letter.

On 19 August 2004, the Office mailed a status letter indicating that the Notification of Missing Requirements had been mailed and enclosing a copy of the Notification.

On 07 September 2004, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating the application went abandoned for failure to timely respond to the Notification of Missing Requirements.

On 09 September 2004, applicant submitted the instant petition.

On 02 November 2004, applicant resubmitted the 09 September 2004 petition by facsimile.

On 16 November 2004, applicant submitted an executed declaration.

DISCUSSION

The showing required to establish nonreceipt of an Office communication is set forth in the notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not Received*, 1156 O.G. 53 (Nov. 16, 1993). The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Items (1), (2) and (3) have been satisfied. Practitioner states that the Notification of Missing Requirements was not received. Practitioner states that a search of the file jacket and docket records indicates that the Notification was not received. Practitioner has furnished a copy of the docket records where the Notification would have been entered had it been received and has referenced the docket record in practitioner's statement.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 29 July 2003 is **VACATED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 07 September 2004 is **VACATED**.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing. The date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) is 16 November 2004.



Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100419

DATE : April 19, 2010

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 6989461

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:

/DANIEL M SULLIVAN/
Supervisory Patent Examiner.Art Unit 1621



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Paper No.

HUNTON & WILLIAMS
/NEW YORK
INTELLECTUAL PROPERTY DEPT.
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

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FEB 20 2007

OFFICE OF PETITIONS

In re Application of :
Pasco et al. : DECISION ON PETITION
Application No. 10/332,408 :
Filed: August 13, 2003 :
Atty Docket No. 67607.2 :

This is a decision on the PETITION TO CHANGE THE ORDER OF THE NAMED INVENTORS, filed November 8, 2006.

The petition is GRANTED.

The instant petition was filed prior to payment of the issue fee on January 12, 2007.

Prior to this decision being issued, the order of the names of the inventors was changed as requested as follows:

1. David Stanley Pasco
2. Nirmal Derek Ceri Pugh
3. Mahmoud Elsohly
4. Samir Ross

Petitioner is reminded that 37 CFR 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 CFR 1.27(c)(2)(ii), filed in the application must be signed by an appropriate party. Therefore, an Application Data Sheet (ADS) or a supplemental ADS filed after the filing of an application must be signed in accordance with 37 CFR 1.33(b).

The supplemental ADS submitted on petition was not signed. Nonetheless, the petition included the request and specified the change to the order of the inventors. Any future petition relying on an ADS submitted after the filing date of the application may be dismissed (even if the petition is signed) if the ADS is not signed by an appropriate party pursuant to 37 CFR 1.33(b).

A filing receipt reflecting this change is enclosed.

The petition fee of \$400 has been charged to Deposit Account No. 50-2536, as authorized.

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: Filing Receipt



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UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/332,408	08/13/2003	1623	725	67607.2	4	18	1

CONFIRMATION NO. 3029

CORRECTED FILING RECEIPT



OC000000022546683

58785
 HUNTON & WILLIAMS/NEW YORK
 INTELLECTUAL PROPERTY DEPT.
 1900 K STREET, N.W.
 SUITE 1200
 WASHINGTON, DC 20006-1109

Date Mailed: 02/20/2007

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

Applicant(s)

David Stanley Pasco, Oxford, MS;
 Nirmal Derek Pugh, Oxford, MS;
 Mahmoud Elsohly, Oxford, MS;
 Samir Ross, Oxford, MS;

Power of Attorney: The patent practitioners associated with Customer Number 58785.

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US01/21596 07/09/2001
 which claims benefit of 60/217,002 07/10/2000

Foreign Applications

If Required, Foreign Filing License Granted: 09/29/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US10/332,408**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

HIGH MOLECULAR WEIGHT POLYSACCHARIDE FRACTION FROM ALOE VERA WITH IMMUNOSTIMULATORY ACTIVITY

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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



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MINNEAPOLIS, MN 55402-0903

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JUN 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Regis LE COUEDIC, et al	:	
Application No. 10/332,412	:	DECISION ON PETITION
Filed: January 7, 2003	:	TO WITHDRAW
Attorney Docket No. 11123.53USWO	:	FROM RECORD

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

The request is **APPROVED**.

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

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

The correspondence address of record remains unchanged.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
April Wise
Petitions Examiner
Office of Petitions



21 JUL 2003

Incyte Genomics, Inc.
3160 Porter Drive
Palo Alto, CA 94304

In re Application of	:	
Yue et al.	:	
Application No.: 10/332,416	:	
PCT No.: PCT/US01/21299	:	
Int. Filing Date: 03 July 2001	:	DECISION
Priority Date: 07 July 2000	:	
Attorney Docket No.: PF-0798 USN	:	
For: GTP - Binding Proteins	:	

This is a decision on applicants' "Communication Re Inventor Name Change" filed on 06 January 2003.

BACKGROUND

This international application was filed on 03 July 2001 and claimed a priority date of 07 July 2000. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Consequently, the thirty period for payment of the basic national fee in the United States expired as of midnight on 07 January 2003.

On 06 January 2003, applicants filed *inter alia* the basic national fee and the instant communication.

DISCUSSION

Review of the record reveals that the declaration of the inventors filed on 06 January 2003 itemizes a joint inventor, Narinder Chawla, whose name does not appear in the published international application, and that the published international application itemizes a joint inventor, Narinder Walia, whose name does not appear in the declaration of the inventors filed on 06 January 2003. Counsel indicates that the discrepancy arose because the inventor "has married and changed her name to Narinder K. Chawla." The communication is accompanied by a statement by Ms. Chawla, attesting that the name change was due to marriage. In that this is clearly more than a mere typographic error or phonetic misspelling of applicant's name, a petition under 37 CFR 1.182 is required to resolve this matter. In this regard, counsel's deposit account no. 09-0108 is being charged in the amount of \$130.00 for the petition fee, as authorized by the instant "communication." See MPEP 605.04(c).

CONCLUSION

The petition to accept the declaration as filed on 06 January 2003 is GRANTED.

This application is being forwarded to the National Stage Processing Branch for further processing. The date of this application under 35 U.S.C. 371 (c)(1), (2) and (4) is 06 January 2003.



Leonard Smith
PCT Legal Examiner
PCT Legal Office



George M. Dombroske
PCT Legal Examiner
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Tel: (703) 308-6721
Fax: (703) 308-6459



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Robert D. Shedd
Thomson Licensing LLC
Patent Operations CN 5312
Princeton, NJ 08543-0028

Mail Date: 04/21/2010

Applicant	: Serge Defrance	: DECISION ON REQUEST FOR
Patent Number	: 7577339	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/332,428	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/07/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1745** 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.

17 AUG 2004



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John J. Gresens
MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903

In re Application of :
HANS SCHRODER, ET AL. :
Appl. No.: 10/332,445 :
Int. Filing Date: 06 July 2001 :
Priority Date: 07 July 2000 :
Agent's File Reference: 12845.0007USWO :
For: METHOD AND SYSTEM FOR :
PROCESSING AND DISPLAY OF VARIABLES :
IN A USER GENERATED NETWORK :
DIAGRAM REPRESENTING A BALANCED :
SYSTEM :

DECISION

This is a decision on applicants' 28 July 2004 communication which has been treated as a petition under 37 CFR 1.28(a) for a refund in the amount of \$1,428 as a result of a communication purportedly filed on 11 March 2003 claiming small entity status. Applicants' petition is **DISMISSED** as follows:

BACKGROUND

On 07 January 2003, applicants submitted a transmittal letter requesting national stage entry of international application PCT/DK01/00474, which claims priority to a U.S. application filed 01 September 2000. Accompanying the letter were fees in the amount of \$2,856.

On 28 July 2004, applicants filed the present petition forwarding, inter alia, a copy of a "Refund Request Under 37 C.F.R. 1.26" purportedly filed on 30 October 2003.

DISCUSSION

MPEP at section 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 PTO of all the items listed thereon on the date stamped thereon by the PTO".

The present petition asserts that a communication claiming small entity status was filed on 11 March 2003. A review of the application file reveals that the 11 March 2003 communication is not of record. The only paper present is a paper mailed on 11 March

2000, which states "Small entity status has been previously established". Furthermore, a review of the papers filed with the present petition reveals that applicant has not provided acceptable proof of receipt of the 11 March 2003 communication in the Office (see MPEP 503).

Under 37 CFR 1.28(a) for applicant to be entitled to a refund, an assertion under 37 CFR 1.27(a) and a request for a refund of the excess amount must be filed within three months. Applicant asserts that a request for a refund was filed on 30 October 2003. While the paper is not of record, even if the paper was of record, applicant would not be entitled to a refund because the request was made later than 3 months from the payment of the fee.

CONCLUSION

Accordingly, applicant's petition for a refund in the amount of \$1,428 is **DISMISSED** without prejudice.

Any reconsideration on the merits of this petition must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.28(a)".

Any further correspondence with respect to this matter should be addressed to the Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.



Leonard Smith
PCT Legal Examiner
PCT Legal Office

JSF/LS:jf



Jeremy Fleming
Paralegal Specialist
PCT Legal Office

(703) 308-6154



03 JUN 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

#3

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ALEXANDRIA, VA 22313-1450
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Incyte Genomics, Inc.
3160 Porter Drive
Palo Alto, CA 94304

In re Application of BAUGHN et al	:	
U.S. Application No.: 10/332,448	:	
PCT Application No.: PCT/US01/21324	:	DECISION
Int. Filing Date: 05 July 2001	:	
Priority Date Claimed: 07 July 2000	:	
Attorney Docket No.: PI-0151 USN	:	
For: DRUG METABOLIZING ENZYMES	:	

This is in response to applicant's "Communication Re Inventor Name Change" filed 07 January 2003, which is being treated as a petition under 37 CFR 1.182.

BACKGROUND

On 05 July 2001, applicant filed international application PCT/US01/21324, which claimed priority of an earlier United States application filed 07 July 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 17 January 2002. A Demand for international preliminary examination, in which the United States was elected, was filed on 01 February 2002, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 07 January 2003.

On 07 January 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and the present petition under 37 CFR 1.182.

06/05/2003 SHAJARRO 00000010 090108 10332448

01 FC:1460 130.00 CH

DISCUSSION

Inventors Chandra Arvizu and Narinder Chawla are listed respectively as Chandra Patterson and Narinder Walia in the international application. Although applicant has submitted a copy of a request under PCT Rule 92bis filed with the International Bureau (IB), the DO/EO/US has not received a Notification of the Recording of a Change (Form PCT/IB/306) which indicates that the requested name changes have been accepted for recording.

MPEP 605.04(c) states in relevant part,

In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. . . . The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

Applicant has filed a petition under 37 CFR 1.182 along with affidavits signed with both names and setting forth the procedure whereby the change of name was effected. The requisite petition fee will be charged to Deposit Account 09-0108 as authorized in the petition.

CONCLUSION

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

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.



Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459



19 APR 2007

PATTON BOGGS LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN VA 22102

In re Application of	:	DECISION ON
C. CASTAN et al.	:	
U.S. Application No.: 10/332,463	:	
PCT Application No.: PCT/FR01/02224	:	PETITION FOR REFUND
Int. Filing Date: 10 July 2001	:	
Priority Date: 11 July 2000	:	
Atty. Docket No.: PLAS-010	:	
For: ORAL PHARMACEUTICAL COMPOSITION...	:	

This is a decision on applicant's petition entitled "REQUEST FOR REFUND" filed on 17 April 2006.

On 09 January 2003, applicant filed a transmittal letter to enter national stage along with the basic national fees in the amount of \$450. On 21 March 2006, applicant filed an Itemization Letter indicating that the small entity status was established in error and requesting a change from small entity to large entity status. On 17 April 2006, after further review, applicant determined that small entity status was indeed correct and that no change in status was necessary. Applicant requests a refund of the large entity fees.

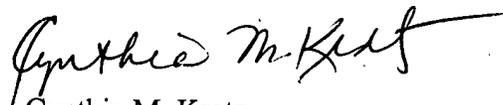
A review of the finance records reveals that applicant paid the basic national fee in the amount of \$300, along with subsequent fees, amounting to \$900. No credit for a refund of the basic national fee upon receipt of the small entity statement appears in the finance records.

Since the small entity statement, filed on 17 April 2006, is deemed to meet the requirements of 37 CFR 1.27, a refund of \$450.00 pursuant to 37 CFR 1.28 (a) and 37 CFR 1.26 is in order and will be credited to applicant's deposit account No. 50-2228.

The extension of time fees of \$1,020.00 paid on 23 June 2006 will also be credited as a small entity. The refund of \$510 will be credited to applicant's deposit account.

CONCLUSION

For the reasons above, applicant's request for refund filed 17 April 2006 in the total amount of \$960 is **GRANTED** and will be credited to applicant's deposit account No. 50-2228.


 Cynthia M. Kratz
 Attorney Advisor
 PCT Legal Office
 Office of PCT Legal Administration

Telephone: 571-272-3286



09 SEP 2004

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Ernest F. Chapman
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER
1300 I Street, NW
Washington, D.C. 20005

In re Application of:	:	
KOUFAKI, Maria, et al.	:	
U.S. Application No.: 10/332,464	:	DECISION ON PETITION
PCT No.: PCT/GR01/00030	:	
International Filing Date: 04 July 2001	:	
Priority Date: 12 July 2000	:	
Attorney's Docket No.: 03470.0008	:	
For: BIFUNCTIONAL AGENTS POSSESSING	:	
ANTIOXIDANT AND ANTIARRHYTHMIC	:	
ACTIVITY	:	

This decision is issued in response to applicants' "Petition Under 37 CFR 1.181 To Accept The Accompanying Duplicate National Stage Papers As Replacements For Original Papers" filed 23 August 2003. No petition fee is required.

BACKGROUND

On 04 July 2001, applicants filed international application PCT/GR01/00030 which claimed a priority date of 12 July 2000 and which designated the United States. On 17 January 2002, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB"). The deadline for payment of the basic national fee was thirty months from the priority date, i.e., 12 January 2003.

On 23 August 2003, applicants filed the "Petition Under 37 CFR 1.181 To Accept The Accompanying Duplicate National Stage Papers As Replacements For Original Papers" considered herein. The petition asserts that national stage papers were filed with the USPTO on 09 January 2003. Applicants' state that, at the time the petition was filed, applicants had not received a Notification Of Acceptance (Form PCT/DO/EO/903) and that applicants had been informed that the USPTO had no record of the 09 January 2004 submission. The petition includes a copy of the materials filed on 09 January 2003.

DISCUSSION

USPTO records with respect to this application indicate that a Notification of Acceptance (Form PCT/DO/EO/903) was mailed in the present application on 24 November 2003; this Notification was apparently issued in response to the materials filed by applicants on 09 January 2003.

Because the national stage materials filed by applicants on 09 January 2003 have been processed by the USPTO, the present petition seeking to replace the purportedly lost materials filed 09 January 2003 with duplicates is moot.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **MOOT**.

This application has been docketed in Group Art Unit 1617 for examination.



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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20071023

DATE : October 23, 2007

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 6,730,694

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

Please complete this form and return with file, within 7 days to:

Certificates of Correction Branch - ST (South Tower) 9A22

Palm location 7590 - Tel. No. (703) 305-8309

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

Thank You For Your Assistance

Certificates of Correction Branch

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

Note your decision on the appropriated box.

Approved

All changes apply.

Approved in Part

Specify below which changes **do not** apply.

Denied

State the reasons for denial below.

Comments:


JOSEPH K. MCKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE:

Art Unit 1626



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

In re Application of	:
TANAHASHI Kazutomo et al	:
Application No.: 10/332,511	:
PCT No.: PCT/JP02/05124	:
Int. Filing Date: 27 May 2002	:
Priority Date: 25 May 2001	:
Attorney's Docket No.: 232745US90PCT	:
For: ALUMINA-SILICA BASED ...	:
ALUMINA FIBER AGGREGATION	:

DECISION ON

PETITION

UNDER 37 CFR 1.181

This decision is in response to the "PETITION UNDER 37 C.F.R. 1.181 TO WITHDRAW HOLDING OF ABANDONMENT" because applicant timely responded to the notice of missing requirements.

BACKGROUND

On 10 January 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), and a copy of the international application. Applicant, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because no executed Declaration was provided with the transmittal letter.

On 24 June 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.47(a) and (b), identifying the application by International application number and international filing date" must be submitted within two months from its 24 June 2003 date of mailing or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application. In addition, the surcharge for providing the oath or declaration later than the appropriate 30 months from the priority date (37 CFR 1.492(e)) is required.

On 19 February 2004, the DO/EO/US mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) which indicated that applicant had failed to respond to the "NOTIFICATION OF MISSING REQUIREMENTS (PCT/DO/EO/905), mailed 06/24/2003 within the time period set therein; accordingly the application was abandoned.

In response to the "NOTIFICATION OF ABANDONMENT" mailed on 19 February 2004, applicants have submitted the instant petition on 15 April 2004 requesting withdrawal of the Notice of Abandonment because the response to the Notification of Missing Requirements was timely. In support of the petition, applicants have provided a copy of the returned/stamped receipt card acknowledging a receipt date of 26 January 2004.

DISCUSSION

Applicants' present petition accompanied by, *inter alia*, a copy of the following documents, filed purportedly with the PTO as indicated in the stamped postcard, and the post lists the items submitted on 26 January 2004:

- (1) Combined Declaration, Petition & Power of Attorney
- (2) Notification of missing requirements under 35 USC 371
- (3) Preliminary Amendment
- (4) Postcard

Applicants state that the papers accompanying the present petition are copies of the papers that were submitted on 26 January 2004 and referred to in the postcard receipt.

MPEP 503 provides:

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

Applicant's postcard is accepted as *prima facie* that, *inter alia*, that the declaration was submitted to the U.S. Patent Office on 26 January 2004.

In view of the above, the applicants' response is considered timely. Accordingly, the instant application has been improperly abandoned.

DECISION

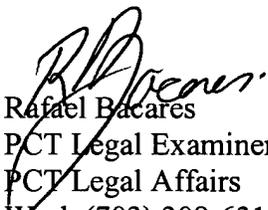
The petition under 37 CFR 1.181 is GRANTED.

Applicants' request to withdraw the "NOTIFICATION OF ABANDONMENT" is GRANTED.

The NOTIFICATION OF ABANDONMENT, mailed 19 February 2004 has been VACATED.

The required fee of \$130.00 (the surcharge under 1.492(e) for late filing of the declaration) has been charged to Deposit Account No.: 15-0030 as authorized in the petition submitted on 15 April 2004.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision that is, for issuance of a Notification of Acceptance of Application (Form PCT/DO/EO/903) identifying a 35 U.S.C. § 371 date of **26 January 2004**.


Rafael Bacares
PCT Legal Examiner
PCT Legal Affairs
Work (703) 308-6312
Fax (703) 308-6459


Leonard Smith
PCT Legal Examiner
PCT Legal Affairs

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 17, 2009

TO SPE OF : ART UNIT 2819

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/332512/ 7288261

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 120

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: ERROR #3 - column 3, line 36 does not contain
The term "CONTAMINATED".

ROBERT MONDESI
SUPERVISORY PATENT EXAMINER

Robert Mondesi

SPE

1645

Art Unit



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

COPY MAILED

JUL 06 2007

OFFICE OF PETITIONS

In re Application of	:	
Yingjie Gao, et al.	:	
Application No. 10/332,530	:	DECISION ON PETITION
Filed: January 10, 2003	:	TO WITHDRAW
Attorney Docket No. 32860-000458/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 January 22, 2007.

The request is **APPROVED**.

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

The request was signed by Donald J. Daley on behalf of all attorneys of record who are associated with customer No. 30596.

All attorneys/agents associated with the Customer Number 30596 have been withdrawn.

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

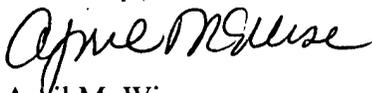
The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the 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 outstanding Office actions at the present time.

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



April M. Wise
Petitions Examiner
Office of Petitions

cc: DR. YINGJIE GAO
TONSTR. 68
47441 MOERS
GERMANY


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UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/332,530	01/10/2003	Yingjie Gao	32860-000458/US

30596
 HARNESS, DICKEY & PIERCE, P.L.C.
 P.O. BOX 8910
 RESTON, VA 20195

CONFIRMATION NO. 6385


OC000000024632458

Date Mailed: 07/02/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/22/2007.

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

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
 FORMER ATTORNEY/AGENT COPY



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ABZ

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Paper No. 062705

Foley & Lardner
Suite 500
3000 K Street NW
Washington DC 20007

AUG 01 2005

In re Application of:	:	
Alexandre Marceaux <i>et al.</i>	:	
Serial No.: 10,332,532	:	DECISION ON REQUEST TO WITHDRAW
Filed: March 25, 2003	:	FROM RECORD
Attorney Docket No.:	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed May 13, 2005.

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

The request meets all the above stated requirements. The request was signed by Martin J. Cosenza, on behalf of himself. There is no outstanding Office action at this time.

The request is **APPROVED**.

B. Noel Kivlin remains of record at this time.

All future communications from the Office will be directed to B. Noel Kivlin, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.


 Clayton E. LaBalle, Special Programs Examiner
 Technology Center 2800
 Semiconductors, Electrical and Optical
 Systems and Components

cc: B.Noel Kivlin
Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.
700 Lavaca, Suite 800
Austin, TX 78701



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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/332,532	03/25/2003	Alexandre Marceaux	5957-01000	5295
35690	7590	03/05/2009	EXAMINER	
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.			JACKSON JR, JEROME	
P.O. BOX 398			ART UNIT	PAPER NUMBER
AUSTIN, TX 78767-0398			2815	
			MAIL DATE	DELIVERY MODE
			03/05/2009	PAPER

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

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



MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

In re Application of Alexandre Marceaux et al. :
Appl. No.: 10/332,532 : DECISION ON PETITION
Filed: March 25, 2003 : UNDER 37 C.F.R. § 1.59
For: SATURABLE ABSORBENT STRUCTURE, :
ESPECIALLY FOR AN OPTICAL :
REGENERATION COMPONENT, AND PROCESS :
FOR PRODUCING IT :

This is a decision on the petition under 37 C.F.R. § 1.59(b), filed April 23, 2008, to expunge information unintentionally submitted on April 22, 2008 (Electronically Acknowledgement Receipt EFS ID #3192324) from the above-identified application.

The petition is DENIED.

Petitioner requests that the information submitted on April 23, 2008, be expunged from the record in order to avoid the file record from having incorrect and potentially confusing information.

A grantable petition to expunge information unintentionally submitted in a patent application must satisfy the conditions set forth in M.P.E.P. § 724.05, which states:

“II. INFORMATION UNINTENTIONALLY SUBMITTED IN APPLICATION

A petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) may be filed under 37 CFR 1.59(b), provided that:

- (A) the Office can effect such return prior to the issuance of any patent on the application in issue;
- (B) it is stated that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;
- (C) the information has not otherwise been made public;
- (D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
- (E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and
- (F) the petition fee as set forth in 37 CFR 1.17(g) is included.

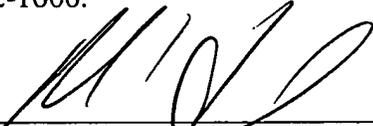
A request to expunge information that has not been clearly identified as information that may be later subject to such a request by marking and placement in a separate sealed envelope or container shall be

treated on a case-by-case basis. Applicants should note that unidentified information that is a trade secret, proprietary, or subject to a protective order that is submitted in an Information Disclosure Statement may inadvertently be placed in an Office prior art search file by the examiner due to the lack of such identification and may not be retrievable. If a petition to expunge is not filed prior to the mailing of the notice of allowability, the materials submitted under MPEP § 724.02 will be released to the public upon the issuance of the application as a patent and upon the filing of a request and the appropriate fee (37 CFR 1.14).”

The petition does not satisfy all the conditions required for a grantable petition to expunge information unintentionally or inadvertently filed on April 22, 2008. The information submitted April 22, 2008 (Electronically Acknowledgement Receipt EFS ID #3192324) will remain in the file record.

It is noted that the application is currently in abandoned status.

Any inquiry regarding this decision should be directed to Hien H. Phan, Quality Assurance Specialist, at (571) 272-1606.



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



GANDERUP KURT R
U S BORAX INC.
26877 TOURNEY ROAD
VALENCIA, CA 91355

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MAR 09 2005

OFFICE OF PETITIONS

In re Application of :
Jeffrey D. Lloyd et al : DECISION DISMISSING
Application No. 10/332,549 : PETITION UNDER 37 CFR
Filed: September 11, 2003 : 1.78(a)(6)
Attorney Docket No. USB-418 :

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed September 16, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR § 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR § 1.76(a)(6), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed application.

The current procedure where a claim for priority under 37 CFR § 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(5)(ii).

However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(6).¹ In the instant case, the Office noted the claim for priority of the prior-filed

¹ Note MPEP 201.11 (III)(D), pages 200-59 and 200-60 (Rev. 2, May 2004) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

application in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt.

In view of the above, the \$1330 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the Examiner of Technology Center AU 1714 for appropriate action on the amendment filed September 16, 2004, including consideration of the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) for benefit of the prior-filed application.



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



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

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AUG 20 2008

In re Application of :
Alexander Shipp :
Application No. 10/332,552 : **ON PETITION**
Filed: September 22, 2003 :
Attorney Docket No. KEMP0012 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 8, 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 October 16, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Three-month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is April 17, 2008.

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

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

This application is being referred to Technology Center AU 2134 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

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

GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

COPY MAILED

MAY 11 2009

OFFICE OF PETITIONS

In re Application of
Alexander SHIPP
Application No. 10/332,552
Filed: September 22, 2003
Attorney Docket No. **117-681**

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:
:
:
:
:

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 4, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **GLENN PATENT GROUP** has been revoked by the assignee of the patent application on January 27, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/31/07

Paper No.: _____

TO SPE OF : ART UNIT 3731

SUBJECT : Request for Certificate of Correction on Patent No.: 7263998

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:

AS STATED IN THE NOTICE OF ALLOWANCE (PTOL-37) MAILED ON APRIL 27, 2007,
NONE OF THE CERTIFIED COPY OF THE PRIORITY DOCUMENT HAS BEEN RECEIVED
IN THIS NATIONAL STAGE APPLICATION.

Tanjale
SPE

3713
Art Unit



Linda Blair Meier
SC Johnson & Son Inc
MS077
1525 Howe Street
Racine, WI 53403

COPY MAILED

JAN 31 2006

OFFICE OF PETITIONS

In re Application of	:	
Moodycliffe et al.	:	
Application No. 10/332,601	:	ON PETITION
Filed: June 12, 2003	:	
Attorney Docket No. J-3115	:	

This is a decision on the petition under 37 CFR 1.181, filed October 3, 2005, to withdraw the holding of abandonment. This is also a decision on the petition filed in the alternative under 37 CFR 1.137(b).

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

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 18, 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 May 19, 2005. A Notice of Abandonment was mailed on August 25, 2005.

Petitioner has proven non-receipt of the Office action.

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

Since relief has been granted under 37 CFR 1.181, the petition under 37 CFR 1.137(b) is unnecessary. The petition fee of \$1,500 will be credited back to petitioner's deposit account.

Technology Center Art Unit 1751 will be informed the application has been revived so that it may further consider the merits of the application in due course.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions



Linda Blair Meier
SC Johnson & Son Inc
MS077
1525 Howe Street
Racine, WI 53403

In re Application of :
Moodycliffe et al. :
Application No. 10/332,601 : ON PETITION
Filed: June 12, 2003 :
Attorney Docket No. J-3115 :

This is a decision on the petition under 37 CFR 1.181, filed October 3, 2005, to withdraw the holding of abandonment. This is also a decision on the petition filed in the alternative under 37 CFR 1.137(b).

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

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 18, 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 May 19, 2005. A Notice of Abandonment was mailed on August 25, 2005.

Petitioner has proven non-receipt of the Office action.

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

Since relief has been granted under 37 CFR 1.181, the petition under 37 CFR 1.137(b) is unnecessary. The petition fee of \$1,500 will be credited back to petitioner's deposit account.

Technology Center Art Unit 1751 will be informed the application has been revived so that it may further consider the merits of the application in due course.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions



Linda Blair Meier
SC Johnson & Son Inc
MS077
1525 Howe Street
Racine, WI 53403

In re Application of :
Moodycliffe et al. :
Application No. 10/332,601 : ON PETITION
Filed: June 12, 2003 :
Attorney Docket No. J-3115 :

This is a decision on the petition under 37 CFR 1.181, filed October 3, 2005, to withdraw the holding of abandonment. This is also a decision on the petition filed in the alternative under 37 CFR 1.137(b).

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

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 18, 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 May 19, 2005. A Notice of Abandonment was mailed on August 25, 2005.

Petitioner has proven non-receipt of the Office action.

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

Since relief has been granted under 37 CFR 1.181, the petition under 37 CFR 1.137(b) is unnecessary. The petition fee of \$1,500 will be credited back to petitioner's deposit account.

Technology Center Art Unit 1751 will be informed the application has been revived so that it may further consider the merits of the application in due course.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions



21 AUG 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

Rothwell, Figg, Ernst & Manbeck, P.C.
Suite 800, 1425 K Street, N.W.
Washington, DC 20005

In re Application of :
Lesho :
US Application No.: 10/332,619 :
PCT Application No.: PCT/US01/20390 :
International Filing Date: 27 June 2001 :
Priority Date: 29 June 2000 :
Attorney's Docket No.: 2232-136-CIP :
For: IMPLANTED SENSOR PROCESSING :
SYSTEM AND METHOD :

DECISION ON
PETITION FOR REVIVAL
UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b), filed on 10 January 2003 in the above-captioned application, is hereby **GRANTED** as follows.

On 27 June 2001, Applicant filed international application PCT/US01/20390, which claimed priority of an earlier U.S. provisional application filed on 29 June 2000. A demand for international preliminary examination, in which the United States was elected, was filed on 28 January 2002, prior to 29 January 2003, the end of the 19-month period from the 29 June 2000 priority date. The period for paying the basic national fee is thus 30 months and ended at midnight on 29 December 2002.

The basic national fee was not submitted on or before 30 December 2002 (Monday). The international application became abandoned as to the United States on 30 December 2002.

The instant petition is accompanied by, *inter alia*:

- (1) A transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371, accompanied by a \$786 payment toward the \$900 basic national fee required by 35 U.S.C. 371(c)(1) and 37 CFR 1.492(a)(5), and an authorization for the USPTO to charge the deficiency to Deposit Account No. 02-2135;
- (2) The \$1,300 petition fee;
- (3) A statement to the effect that the entire delay in filing the basic national fee from its due date until the filing of the instant petition under 37 CFR 1.137(b) was unintentional.

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

The request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the national stage in the United States of America.

To date, an oath or declaration required by 35 U.S.C. 371(c)(4) has not been filed. However, Applicant's claim for priority is acknowledged. The application has an international filing date of 27 June 2001 under 35 U.S.C. 363.

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



Richard Cole
PCT Legal Examiner
PCT Legal Office



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



17 MAR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

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

In re Application of :
STILLHARD, Bruno *et al* :
U.S. Application No.: 10/332,625 :
PCT No.: PCT/CH01/00249 :
Int. Filing Date: 19 April 2001 :
Priority Date: 20 April 2000 :
Attorney Docket No.: 06638.0005 :
For: METHOD AND DRIVE SYSTEM FOR :
THE CONTROL/REGULATION OF :
LINEAR PRESSURE/CAST :
MOVEMENT :

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

Applicants' "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b)" filed with the national stage papers on 10 January 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required fees and documents to enter the National Phase from the due date for entry of the national phase until the filing of this petition, was unintentional" as required by 37 CFR 1.137(b)(3). The petition fee of \$1,300.00, basic national fee of \$900.00, surcharge fee of \$130.00 and multiple dependent claim fee of \$280.00 have been paid. No terminal disclaimer is required. Accordingly, all requirements under 37 CFR 1.137(b) are now satisfied.

Applicants have completed the requirements for acceptance under 35 U.S.C. § 371(c). The application has an international filing date of 19 April 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **10 January 2003**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457



JGJR.: 04-06

Paper No: __

MORRIS, MANNING & MARTIN LLP
1600 ATLANTA FINANCIAL CENTER
3343 PEACHTREE ROAD NE
ATLANTA GA 30326

COPY MAILED

APR 07 2006

OFFICE OF PETITIONS

In re Application of	:	
Deegan, et al.	:	DECISION
Application No. 10/332,638	:	
Filing Date: 6 August, 2003	:	
Attorney Docket No.: 12879-40022	:	

This is a decision on the petition filed on 14 March, 2006, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.181 is **DISMISSED without prejudice.**

NOTES:

- (1) 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. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."
- (2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record reflects that:

- it appeared that Petitioner failed to reply timely and properly to the non-final Office action mailed on 20 June, 2005, with reply due absent and extension of time on or before 20 September, 2005;
- the application went abandoned after midnight 20 September, 2005;
- it does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed;
- on 14 March, 2006, Petitioner filed the instant petition with the allegation that the reply in the form of an amendment was timely filed on 21 November, 2005, accompanied by a request and fee for a two month extension of time, and in support of this allegation, Petitioner submits what are averred to be true copies of the date-stamped (“NOV 21 2005”) receipt card (see: MPEP §503¹) evidencing receipt by the Office of the

¹ MPEP §503 provides in pertinent part:
§503 Application Number and Filing Receipt

* * *

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). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. 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.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a

reply—however, the document submitted as the request and fee for extension of time is a paper from another application, to wit: Application No. 09/926,006—and the reply averred to have been filed.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).²

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.³

Delays in responding properly raise the question whether delays are unavoidable.⁴ Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).⁵ And the Petitioner must be diligent in attending to the matter.⁶ Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and

particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as prima facie evidence of receipt of that item in the USPTO. (Emphasis supplied.)

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*.

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.⁷)

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.⁸

Petitioner's documentation in support of the petition is, as noted above, in conflict in that the paper submitted as the request and fee for extension of time is a paper from another application, to wit: Application No. 09/926,006. Thus, it is unclear at this writing as to whether Petitioner has satisfied the requirements of the regulation and the case law as discussed above.

CONCLUSION

Because it is unclear as of this writing whether Petitioner has satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 is **dismissed without prejudice** for Petitioner to seek reconsideration upon submission of the appropriate documentation.

Further correspondence with respect to this matter should be addressed as follows:⁹

By mail: Commissioner for Patents¹⁰
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
 (571) 273-8300
 ATTN.: Office of Petitions

⁷ Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

⁸ See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

⁹ On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. Faxes sent to the old number no longer are routed to the new number. The number (571) 273-8300 is the only facsimile number recognized for centralized delivery. (For further information. see: <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf>.)

¹⁰ To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

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

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



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



JGJR.: 08-07

Paper No: __

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314

COPY MAILED

SEP 10 2007

OFFICE OF PETITIONS

In re Application of	:	
Deegan, et al.	:	DECISION
Application No. 10/332,638	:	
Filing Date: 6 August, 2003	:	
Attorney Docket No.: 12879-40022//	:	
DEEG3003/REF	:	

This is a decision on the petition filed on 6 October, 2006, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.¹

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 20

¹ **NOTE:** Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.

June, 2005, with reply due absent and extension of time on or before 20 September, 2005;

- the application went abandoned after midnight 20 September, 2005;
- it does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed;
- on 14 March, 2006, Petitioner filed the instant petition with the allegation that the reply in the form of an amendment was timely filed on 21 November, 2005, accompanied by a request and fee for a two month extension of time, and in support of this allegation, Petitioner submits what are averred to be true copies of the date-stamped (“NOV 21 2005”) receipt card (see: MPEP §503²) evidencing receipt by the Office of the reply—however, the document submitted as the request and fee for extension of time is a paper from another application, to wit: Application No. 09/926,006, and so confused the content of Petitioner’s filing, and the reply averred to have been filed—and so the petition was dismissed without prejudice on 7 April, 2006, for Petitioner to correct and clarify the matter;

² MPEP §503 provides in pertinent part:
§503 Application Number and Filing Receipt

* * *

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). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. 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.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

- the instant petition seeks to overcome those deficiencies.

Petitioner also contends that, notwithstanding the fact that he waited an additional four months (over and above the initial two months allotted for his reply) to address the matter that he for some reason should not have to request and pay for an extension of time because the attorney who was to address the matter for the Office was away briefly. There is no logic to that position in light of the fact that it was the Petitioner who elected to wait the additional period before submitting a reply. Moreover, the interim delay appears to have been a docketing delay.

Because it appears that no extension of time fee was charged in March 2006 when Petitioner filed his reply with a request for extension, and because while Petitioner provides a copy of a check tendered in payment there is no evidence of record at this writing that the check was cashed, Petitioner's authority to charge Deposit Account 02-0200 for the fees is being honored at this time. Should Petitioner later learn that his check was cashed by the Office, he should seek from the Office of Finance the appropriate refund to obviate the duplicate charge.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).³

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.⁴

Delays in responding properly raise the question whether delays are unavoidable.⁵ Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing

³ 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

⁴ Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

⁵ See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).⁶ And the Petitioner must be diligent in attending to the matter.⁷ Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.⁸))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.⁹

Petitioner appears now to have clarified his filings and satisfied the requirements under the regulation and case law.

CONCLUSION

Petitioner appears to have satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 is **granted**, and the abandonment previously considered/foreseen (though un-mailed) is **vacated**.

The instant application is released to Technology Center 3700 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2¹⁰) and

⁶ See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

⁷ See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

⁸ Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

⁹ See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

¹⁰ The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing. All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is

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

disagreement or doubt.



13 NOV 2003

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#4

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BAYER CROPSCIENCE LP
100 Bayer Road
Pittsburgh, PA 15205

In re Application of :
KRAATZ, Udo *et al* :
U.S. Application No.: 10/332,645 :
PCT No.: PCT/EP01/07432 :
Int. Filing Date: 29 June 2001 :
Priority Date: 13 July 2000 :
Attorney Docket No.: CS-7623/LeA 34,472 :
For: HETEROCYCLIC FLUOROAKENYL :
THIOTHERS AND THE USE . . . :

DECISION

This is a decision on applicants' "Petition Under Rule 1.181" filed on 03 November 2003. No fee is required.

BACKGROUND

On 01 May 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b), and a surcharge fee of \$130.00 must be provided. Applicants were given two months to respond with extensions of time available under 37 CFR 1.136(a).

On 29 September 2003, applicants purportedly filed a "Communication" along with a "Declaration of Donna Veatch."

On 23 October 2003, applicants purportedly submitted a facsimile to the PCT Applications Branch.

On 03 November 2003, applicants submitted the instant petition via facsimile which was accompanied by, *inter alia*, a copy of the computerized docket report; a copy of the petition purportedly filed 29 September 2003; a copy of the documents filed on 23 October 2003 and a date-stamped postcard receipt for the 29 September 2003 filing.

DISCUSSION

Petition Originally Filed 29 September 2003

The communications allegedly made on 29 September 2003 and 23 October 2003 are not located in the file. Nevertheless, section 503 of the Manual of Patent Examining Procedure (MPEP) lists procedures to ensure receipt of any paper filed in

the USPTO. Applicants must enclose a self-addressed postcard identifying all of the papers filed. The USPTO will stamp the receipt date on the card and place it on the outgoing mail. The identifying data on the card must clearly identify the paper for which receipt is requested. 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.

In this case, applicants have provided a copy of the date-stamped filing receipt for the documents submitted 29 September 2003. The receipt clearly identifies the application by the serial number, attorney docket number, and name of an applicant. The filing receipt records that a Communication and Declaration of Donna Veatch were received in the USPTO. The receipt is stamped "Rec'd PCT/PTO 29 SEP 2003" across its face.

Accordingly, applicants have provided *prima facie* evidence that the documents listed above were received by the USPTO on 29 September 2003.

Office Action Never Received

This petition is based on a failure to receive an Office action, not a petition to reset the time period. See § 711.03(c) MPEP. The showing required to establish the failure to receive an Office communication consists of: (1) a statement from the practitioner declaring that the Office communication was not received by the practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and, (3) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioners' statement.

In the "Communication" originally filed 29 September 2003, applicants claim that "the original Missing Requirements dated May 1, 2003, was never received." This statement satisfies item (1).

However, applicants have not made the required statement that a search of the file jacket and docket records indicate that the Notification of Missing requirements was never received. The declaration of Donna J. Veatch does not contain such a statement. As such, item (2) is not yet complete.

Petitioners also submitted a copy of a computerized docket system containing docket information for five attorney's. A review of this docket record does not indicate that the Notification of Missing Requirements mailed 01 May 2003 was received. However, this does not meet the docket record requirement outlined in section 711.03(c) of the MPEP which states, in part:

A copy of the docket record where the nonreceived Office communication

would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. **For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.** (Emphasis added).

Applicants must provide a copy of the docket records for the date upon which a response to the Notification of Missing Requirements was due (*i.e.*, 01 July 2003). An example of such a record would be a daily "tickler" report or a daily log showing all applications for which a response is due on that date. Therefore, item (3) is also not yet satisfied.

Since all of the requirements are not satisfied, applicants have not yet established nonreceipt of an Office action.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." No fee is required.

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



James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-645



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BAYER CROPSCIENCE LP
100 Bayer Road
Pittsburgh, PA 15205

In re Application of :
KRAATZ, Udo *et al* :
U.S. Application No.: 10/332,645 :
PCT No.: PCT/EP01/07432 :
Int. Filing Date: 29 June 2001 :
Priority Date: 13 July 2000 :
Attorney Docket No.: CS-7623/LeA 34,472 :
For: HETEROCYCLIC FLUOROAKENYL :
THIOTHERS AND THE USE . . . :

DECISION

This is a decision on applicants' "Renewed Petition Under 37 CFR 1.181" filed on 28 November 2003. No fee is required.

BACKGROUND

On 13 November 2003, a decision dismissing applicants' petition under 37 CFR 1.181 for failure to receive an office action was mailed. The decision noted that a copy of counsel's docket records showing all applications for which a response is due and a statement attesting that a search of the file jacket and docket records was required.

On 28 November 2003, applicants submitted the instant renewed petition which was accompanied by, *inter alia*, a declaration by Donna Veatch ("Decl."), and a copy of the docket for all actions due between 01 May 2003 through 31 July 2003.

DISCUSSION

As previously stated, a showing required to establish the failure to receive an Office communication consists of: (1) a statement from the practitioner declaring that the Office communication was not received by the practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and, (3) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioners' statement. Items (2) and (3) were not satisfied in the original petition.

In the renewed petition, counsel included a declaration by Ms. Veatch who states that "I have made a thorough search of the file jacket as well as the docket records and attest that a Notification of Missing Requirements was not received for the above-identified application until a "faxed" copy was received on September 16, 2003 from the PCT Help Center." Decl. at ¶ 6. This statement is sufficient to satisfy item (2).

Concerning item (3), applicants submitted a copy of the "computer printout of my docket for actions due between May 1 and July 31, 2003." Id. A review of this document shows that there is no indication that an office action for the above-captioned application (Docket Number CS-7623) was ever received. Therefore, item (3) is also satisfied.

Accordingly, applicants have met the requirements required to establish nonreceipt of an Office action.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

The time period to respond to the Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) originally mailed 01 May 2003 has been reset.

Applicants have **TWO (2) MONTHS** from the mail date of this decision to reply. Extensions of time are available under 37 CFR 1.136(a).

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.



James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457



08 MAR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

#5

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John P. Ward
Blakely, Sokoloff, Taylor & Zachmann
Seventh Floor
12400 Wilshire Boulevard
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In re Application of	:	
LUI et al.	:	
Application No.: 10/332,652	:	DECISION ON PETITION
PCT No.: PCT/CN01/00684	:	
Int. Filing Date: 08 May 2001	:	
Priority Date: None	:	
Attorney Docket No.: 42390.P10642	:	
For: METHOD, APPARATUS AND SYSTEM	:	
FOR BUILDING CONTEXT	:	
DEPENDENT MODELS FOR A LARGE	:	
VOCABULARY CONTINUOUS ...	:	

This decision is in response to applicants' "Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)" filed in the Patent and Trademark Office (PTO) on 23 February 2005.

BACKGROUND

On 08 May 2001, applicants filed international application PCT/CN01/00684 which claimed no priority date. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 14 November 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 08 November 2003.

On 08 January 2003, applicants filed a Transmittal Letter for entry into the national stage accompanied, *inter alia*, by: the requisite basic national fee and a copy of the international application.

On 11 April 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) along with a surcharge for providing the oath or declaration later than 30 months from the priority date was required. The notification set a two (2) month period for response.

On 05 October 2004, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT indicating that the application was

abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 11 April 2003 within the time period set therein.

On 23 February 2005, applicants filed "Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)."

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c). Applicants have satisfied Items (2)-(4).

With regard to Item (1), the proper response was the submission of the declaration of the inventors which complies with 37 CFR 1.497(a) and (b). A review of the declaration filed on 23 February 2005 reveals that the declaration is not in an acceptable form. Applicants have provided a defective executed composite declaration. Section 201.03(II)(B) of the Manual of Patent Examining Procedure states, in part,

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

Here, the composite declaration is defective because it contains multiple duplicate sheets of page 3. This suggests that the enclosed declaration was constructed from numerous complete declarations or that the inventors forwarded to counsel only the signature pages of the declaration. Either alternative renders the submitted declaration defective under 37 CFR 1.497. As stated above, where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. (See MPEP 201.03.) Further, the declaration submitted on 23 February 2005 is not in compliance with 37 CFR 1.497(a)(3) which requires that the oath or declaration identify the inventor and country of citizenship of the inventor. In this case, the first and third inventors have listed their citizenship as "PRC" which is not a recognized abbreviation by the United States Designated/Elected Office. Since the declaration does not clearly identify the citizenship of the inventor, it is considered defective under 37 CFR 1.497(a)(3) and 37 CFR 1.63(c)(1). Therefore, applicants have not satisfied item (1) above.

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

CONCLUSION

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

If reconsideration on the merits of this petition is desired, an appropriate response to this decision must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." Extensions of time may be obtained under 37 CFR 1.136(a).

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



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

26 MAY 2005

#7



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In re Application of :
LUI et al. :
Application No.: 10/332,652 :
PCT No.: PCT/CN01/00684 :
Int. Filing Date: 08 May 2001 :
Priority Date: None :
Attorney Docket No.: 42390.P10642 :
For: METHOD, APPARATUS AND SYSTEM :
FOR BUILDING CONTEXT :
DEPENDENT MODELS FOR A LARGE :
VOCABULARY CONTINUOUS ... :

DECISION ON PETITION

The renewed petition to revive under 37 CFR 1.137(b) filed 05 May 2005 in the above-captioned application is hereby GRANTED as follows:

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

A review of the application file reveals that applicants have submitted an executed declaration/power of attorney and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. The petition under 37 CFR 1.137(b) is GRANTED.

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

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



Merchant & Gould, PC
P.O. Box 2903
Minneapolis, MN 55402-0903

COPY MAILED

APR 12 2007

OFFICE OF PETITIONS

In re Application of
Arai Daisuke et al.
Application No. 10/332,657
Filed: January 10, 2003
Attorney Docket No. 12052.0060USWO

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. § 1.136(b), filed January 22, 2007.

The request is **APPROVED**.

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

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

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

The correspondence address of record remains unchanged.

A final rejection was mailed on February 23, 2007 setting a three month shortened period for reply. Extensions of time are available under the provisions of 37 CFR 1.136(b). Failure to timely reply will result in the abandonment of this application.

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


Frances Hicks
Petitions Examiner
Office of Petitions



13 MAY 2004

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Andrew R. Basile
Young & Basile
3001 West Big Beaver Road
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Troy, Michigan 48084

In re Application of :
ECKHARDT et al. :
Application No. 10/332,662 :
PCT No.: PCT/EP01/07857 : DECISION
Int. Filing Date: 09 July 2001 :
Priority Date: 12 July 2000 :
Attorney Docket No.: VWP-522-A :
For: WIPING DEVICE :

This decision is in response to "Communication" filed via facsimile on 06 May 2004, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 09 July 2001, applicants filed international application PCT/EP01/07857 which claimed priority date of 12 July 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 17 January 2002. A Demand was filed with the International Preliminary Examination Authority. As a result, the deadline for entry into the national stage in the United States expired 30 months from the priority date, on 12 January 2003.

On 10 January 2003, applicants timely filed a request to enter into the national stage under 35 U.S.C. 371 along with the appropriate basic national filing fee, a copy of the international application, a translation of the international application; a preliminary amendment; and an unexecuted declaration.

On 20 June 2003, the United States Designated/Elected Office mailed a Notification of Missing Requirements (PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge under 37 CFR 1.492(e).

On 25 September 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) which set forth a 35 U.S.C. 371 completion date of 05 September 2003. (The Notification was mailed to an incorrect correspondence address.)

On 06 May 2004, applicants filed "Communication" which included, inter alia: a copy of the declaration and power of attorney; a request for a one-month extension of time; and a postcard receipt dated 22 September 2003.

DISCUSSION

Applicant states in their present petition that a declaration and power of attorney was received at the United States Patent and Trademark Office on 22 September 2003. A review of the present application reveals that the declaration and power of attorney filed 22 September 2003 is not located therein. Section 503 of the Manual of Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

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

The accompanying copy of the post card receipt identifies the application by applicant, application number, and docket number. The receipt itemizes, inter alia, oath; a request for a one-month extension of time; and a check. The receipt is stamped "Rec'd PCT/PRO 22 September 2003" across its face and is sufficient to indicate that the combined declaration and power of attorney was in fact received in the Office on 22 September 2003.

A review of the application papers reveals that applicant has completed all the requirements of 35 U.S.C. 371 for entry into the national stage.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is GRANTED.

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) mailed on 25 September 2003 is hereby VACATED.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a NOTIFICATION OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) and Official Filing Receipt which identifies a date of 22 September 2003 under 35 U.S.C. 371(c). Thereafter, the application will be forwarded to Art Unit 1744.



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

Law Offices of
YOUNG & BASILE, P.C.
Patents, Trademarks and Copyrights

3001 W. Big Beaver Road
Suite 624
Troy, Michigan 48084
Telephone: (248) 649-3333
FACSIMILE NO.: (248) 649-3338

FACSIMILE TRANSMISSION

DATE: May 6, 2004
OUR REFERENCE: VWP-522-A
YOUR REFERENCE: S. N. 10/332,662
TO: Ms. Wolski
PCT
FACSIMILE NO.: 703-305-2919
FROM: William Hanlon
RE: Copy of Combined Declaration and Power of Attorney
PAGES TO FOLLOW: Ten (10)
MESSAGE: See Attached.

RECEIVED
MAY 06 2004
PCT SPECIAL
PROGRAMS OFFICE

THE INFORMATION CONTAINED IN THIS FACSIMILE IS ATTORNEY PRIVILEGED AND/OR CONFIDENTIAL AND IS INTENDED ONLY FOR THE NAMED RECIPIENT. If you have received this communication in error, please notify us immediately. You are hereby notified that any dissemination, distribution or copying of this information is strictly prohibited. Thank you.

This message was transmitted by Diane in the Troy office. If transmission difficulties occur, please contact sender at (248) 649-3333. Please respond to:
FACSIMILE NO. (248) 649-3338

Please call to confirm receipt
 Original will not follow
Original will follow by:
Regular Mail
Express Mail
Federal Express
Other

Our Reference: VWP-522-A

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Eckhardt Schmid et al

Serial Number: 10/332,662

Filing Date: January 10, 2003

Examiner/Art Group Unit: Unknown/Unknown

Title: WIPING DEVICE

CERTIFICATION OF FACSIMILE TRANSMISSION

Sir:

Transmitted with this document is a Communication, and a copy of a return postcard, a copy of Certificate of Mailing, a copy of a Request for a One-Month Extension of Time, a copy of the Notification to File Missing Requirements a copy of a Response to Notification to File Missing Requirements, and a true copy of the Combined Declaration and Power of Attorney in the above-identified application.

X No additional fee is required.

X Please charge any additional fees or credit any overpayment to Deposit Account Number 25-0115.

I hereby certify that this correspondence was transmitted, via Facsimile, to Ms. Wolski, PCT Help Desk at 703-305-2919 on May 6, 2004.

Respectfully submitted,

YOUNG, BASILE, HANLON, MacFARLANE,
WOOD & HELMHOLDT, P.C.



William M. Hanlon, Jr.
Attorney for Applicant(s)
Registration No. 28422
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WMH/DPC/dge

Our Reference: VWP-522-A

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Eckhardt Schmid et al
Serial Number: 10/332,662
Filing Date: January 10, 2003
Examiner/Art Group Unit: Unknown/Unknown
Title: WIPING DEVICE

COMMUNICATION

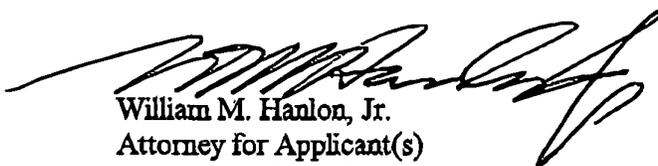
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Alexandria, VA 22313-1450

Sirs:

I hereby certify that the attached papers are true copies of our Response to the Notification to File Missing Requirements filed on September 19, 2003. Also attached is a copy of the return postcard stamped by the PTO indicating receipt of the aforementioned papers.

Respectfully submitted,

YOUNG, BASILE, HANLON, MacFARLANE, WOOD
& HELMHOLDT, P.C.



William M. Hanlon, Jr.
Attorney for Applicant(s)
Registration No. 28422
(248) 649-3333

3001 West Big Beaver Rd., Suite 624
Troy, Michigan 48084-3107

Dated: May 6, 2004
WMH/DPC/dge

THE U.S. PATENT OFFICE "RECEIVED"
S KNOWLEDGES RECEIPT OF:

From: Cert of Mailing, Reg. for Int. Ext, check,
copy of Notification, Response and oath
Applicant: Eckhardt Schmid et al.

Serial No. 10/332,662 / VWP-522-A

Date Mailed: Sept. 19, 2003

Due: Sept. 20, 2003

AR/BJZ

DT14 Rec'd PCT/PTO 22 SEP 2003

Our Reference: VWP-522-A

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Eckhardt Schmid et al.
 Serial Number: 10/332,662
 I.A. Filing Date: July 9, 2001
 Examiner/Group Art Unit: Unknown/Unknown
 Title: WIPING DEVICE

CERTIFICATE OF MAILING AND TRANSMITTAL LETTER

MAIL STOP PCT
 Commissioner for Patents
 PO Box 1450
 Alexandria, VA 22313-1450

Sir:

Transmitted with this document are a Postcard, Request for a One-Month Extension of Time with \$110 extension fee check, a copy of the Notification of Missing Requirements Under 35 U.S.C. 371, Response thereto and executed Combined Declaration and Power of Attorney in connection with the above-identified application.

X A check in the amount of \$110.00 is attached.

X Please charge any deficiency or credit any excess in the enclosed fees to Deposit Account Number 25-0115.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop PCT, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on September 19, 2003.



 Andrew R. Basile
 Attorney for Applicants
 Registration No. 24753
 (248) 649-3333

YOUNG & BASILE, P.C.
 3001 West Big Beaver Road, Suite 624
 Troy, MI 48084-3107
 ARB/jfz

Our Reference: VWP-522-A

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Eckhardt Schmid et al.
Serial Number: 10/332,662
I.A. Filing Date: July 9, 2001
Examiner/Group Art Unit: Unknown/Unknown
Title: WIPING DEVICE

REQUEST FOR A ONE-MONTH EXTENSION OF TIME

Mail Stop PCT
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant's Attorney hereby requests an extension of time from August 20, 2003 until September 20, 2003 for filing a response to the Notification of Missing Requirements Under 35 U.S.C. 371 dated June 20, 2003 in the above-identified patent application.

Applicants' Attorney's check in the amount of \$110.00 to cover the extension of time fee is enclosed.

Please charge any additional fees or credit overpayment to Deposit Account No. 25-0115.

A duplicate copy of this Request is enclosed.

Respectfully submitted,

YOUNG & BASILE, P.C.


Andrew R. Basile
Attorney for Applicants
Registration No. 24753
(248) 649-3333

3001 West Big Beaver Rd., Suite 624
Troy, Michigan 48084-3107
Dated: September 19, 2003

Our Reference: VWP-522-A

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Eckhardt Schmid et al.
Serial Number: 10/332,662
I.A. Filing Date: July 9, 2001
Examiner/Group Art Unit: Unknown/Unknown
Title: WIPING DEVICE

RESPONSE TO
NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371
IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

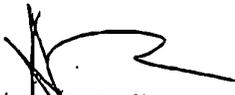
MAIL STOP PCT
Commissioner of Patents and Trademarks
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Notification of Missing Requirements Under 35 U.S.C. 371 dated June 20, 2003, Applicants' attorney hereby encloses a copy of the Notification and the executed Combined Declaration and Power of Attorney. A Request for a One-Month Extension of Time and a check in the amount of \$110.00 for the extension fee are attached hereto.

Respectfully submitted,

YOUNG & BASILE, P.C.



Andrew R. Basile
Attorney for Applicants
Registration No. 24753
(248) 649-3333

3001 West Big Beaver Road
Suite 624
Troy, Michigan 48084-3107
Dated: September 19, 2003
ARB/jfz



UNITED STATES PATENT AND TRADEMARK OFFICE

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

U.S. APPLICATION NUMBER NO. 10/332,662	FIRST NAMED APPLICANT Schmid Eckhardt	ATTY DOCKET NO. VWP-522-A
INTERNATIONAL APPLICATION NO. PCT/EP01/07857		
LA. FILING DATE 07/09/2001	PRIORITY DATE	

Andrew R Basile
Young & Basile
3001 West Big Beaver Road
Suite 624
Troy, MI 48084

DOCKET # 41828

CONFIRMATION NO. 6774
371 FORMALITIES LETTER
OC000Q0001 0298567

Date Mailed: 06/20/2003

DM 8-2003

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated/Elected Office (37 CFR 1.495).

- Copy of the International Application filed on 01/10/2003
- Copy of the International Search Report filed on 01/10/2003
- Copy of IPE Report filed on 01/10/2003
- Preliminary Amendments filed on 01/10/2003
- Information Disclosure Statements filed on 01/10/2003
- Request for Immediate Examination filed on 01/10/2003
- Copy of references cited in ISR filed on 01/10/2003
- U.S. Basic National Fees filed on 01/10/2003
- Substitute Specification filed on 01/10/2003

RECEIVED

JUN 24 2003

YOUNG & BASILE, P.C.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date.

ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

A copy of this notice *MUST* be returned with the response.

DEBORAH D WILLIAMS

Telephone: (703) 305-3744

PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO
10/332,662	PCT/EP01/07857	VWP-522-A

FORM PCT/DO/EO/805 (371 Formalities Notice)

POWER OF ATTORNEY:

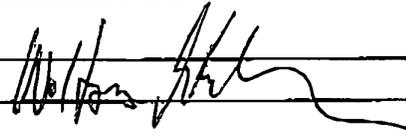
I hereby appoint the following attorney(s) and/or agent(s) J. Gordon Lewis, Patent Office Registration No. 28735, Andrew R. Basile, Patent Office Registration No. 24753, William M. Hanton, Jr., Patent Office Registration No. 28422, and Thomas D. Helmholdt, Patent Office Registration No. 33181, as my attorney(s) and/or agent(s), to prosecute this application and to transact all business in the United States Patent and Trademark Office connected therewith.

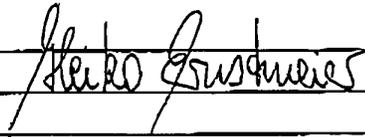
Send all correspondence to: Andrew R. Basile
Young & Basile, P.C.
3001 West Big Beaver Road, Suite 624
Troy, Michigan 48064
Phone: (248) 649-3333

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 issued thereon.

Full name of sole or first inventor, Eckhardt Schmid
Inventor's Signature 
Date 10-7-03 Citizenship Germany
Residence Heilbronner Strasse 62, 74336 Brackenheim, Germany
Post Office Address Same as above.

Full name of second joint inventor, if any, Oliver Lenzen
Inventor's Signature 
Date 10-7-03 Citizenship Germany
Residence Im Burgstrall 5, 74343 Sechsenheim, Germany
Post Office Address Same as above.

Full name of third joint inventor, if any, Wolfgang Scholl
Inventor's Signature 
Date 11-07-03 Citizenship Germany
Residence Forstgrasse 29, 74376 Gemmingen, Germany
Post Office Address Same as above.

Full name of fourth joint inventor, if any, Helko Ernstmeier
Inventor's Signature 
Date 11-08-2003 Citizenship Germany
Residence Westendstrasse 83, 74321 Bietigheim-Bissingen, Germany
Post Office Address Same as above.

(12) NACH DEM VERTRAG ÜBER DIE INTERNATIONALE ZUSAMMENARBEIT AUF DEM GEBIET DES
PATENTWESENS (PCT) VERÖFFENTLICHTE INTERNATIONALE ANMELDUNG

(19) Weltorganisation für geistiges Eigentum
Internationales Büro



(43) Internationales Veröffentlichungsdatum
17. Januar 2002 (17.01.2002)

PCT

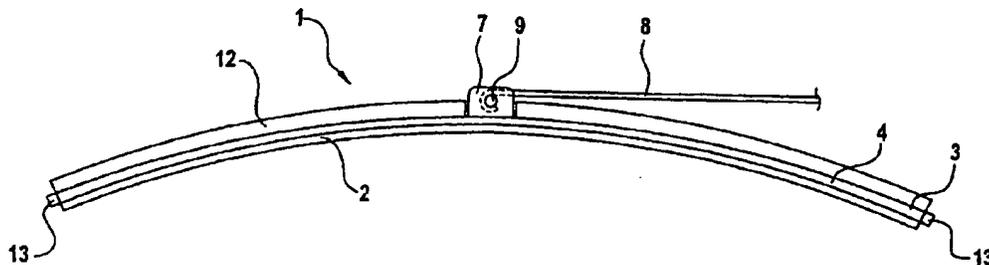
(10) Internationale Veröffentlichungsnummer
WO 02/04265 A1

- (51) Internationale Patentklassifikation⁷: **B60S 1/38** [DE/DE]; Heilbronner Str. 62, 74336 Brackenheim (DE). LENZEN, Oliver [DE/DE]; Im Burgstall 5, 74343 Sachsenheim (DE). SCHOLL, Wolfgang [DE/DE]; Forststrasse 29, 74376 Gemmingheim (DE). ERNST-MEIER, Heiko [DE/DE]; Westendstrasse 83, 74321 Bietigheim-Bissingen (DE).
- (21) Internationales Aktenzeichen: PCT/EP01/07857
- (22) Internationales Anmeldedatum: 9. Juli 2001 (09.07.2001)
- (25) Einreichungssprache: Deutsch
- (26) Veröffentlichungssprache: Deutsch
- (30) Angaben zur Priorität: 100 33 778.3 12. Juli 2000 (12.07.2000) DE
- (71) Anmelder (für alle Bestimmungsstaaten mit Ausnahme von US): VALEO AUTO-ELECTRIC WISCHER UND MOTOREN GMBH [DE/DE]; Stuttgarter Strasse 119, 74321 Bietigheim-Bissingen (DE).
- (74) Anwalt: JAHN, Wolf-Diethart; Valeo Auto-Electric Wischer und Motoren GmbH, Stuttgarter Strasse 119, 74321 Bietigheim-Bissingen (DE).
- (81) Bestimmungsstaaten (national): BR, CN, JP, US.
- (84) Bestimmungsstaaten (regional): europäisches Patent (AT, BE, CH, CY, DE, DK, ES, FI, FR, GB, GR, IE, IT, LU, MC, NL, PT, SE, TR).
- (72) Erfinder; und
- (75) Erfinder/Anmelder (nur für US): SCHMID, Eckhardt
- Veröffentlicht:
— mit internationalem Recherchenbericht

[Fortsetzung auf der nächsten Seite]

(54) Title: WIPING DEVICE

(54) Bezeichnung: WISCHVORRICHTUNG



(57) Abstract: The invention relates to a wiping device (1), particularly for motor vehicles, comprising a wiper blade which consists of a wiper rubber (2) with two longitudinal grooves (3) arranged opposite each other and contains a supporting element in the form of two elongated elastic rails (4), formed as bands, arranged in the longitudinal grooves. An adapter element (7) is provided on the supporting element to connect the wiper blade to a driveable wiper arm (8). A connecting element (13) extending in a cross direction is used to connect the opposite-lying elastic rails and is arranged on at least one of the free ends of the wiper blade. The invention is characterised in that the connecting element is welded to both front sides of the extremities of the elastic rails which are situated opposite each other.

(57) Zusammenfassung: Die Erfindung betrifft eine Wischvorrichtung (1), insbesondere für Kraftfahrzeuge, mit einem Wischblatt, welches ein Wischgummi (2) mit zwei einander gegenüberliegenden Längsnuten (3) und ein Trageelement in Form von zwei in den Längsnuten angeordneten bandartigen, langgestreckten Federschiene (4) aufweist, wobei an dem Trageelement ein Adapterelement (7) zum Verbinden des Wischblattes mit antreibbarem Wischarm (8) vorgesehen ist und wobei wenigstens an einem der freien Enden des Wischblattes ein sich in Querrichtung erstreckendes Verbindungselement (13) zum Verbinden der sich gegenüberliegenden Federschieneenden vorgesehen ist. Die Erfindung kennzeichnet sich dadurch, dass das Verbindungselement an die beiden Stirnseiten der Enden der sich gegenüberliegenden Federschiene angeschweisst ist.

WO 02/04265 A1



JOSEPH S. TRIPOLI
THOMSON MULTIMEDIA LICENSING INC
PATENT OPERATIONS CN 5312
PRINCETON, NJ 08543-0028

COPY MAILED

JUL 01 2009

OFFICE OF PETITIONS

In re Application of :
Eric Diehl, et al. :
Application No. 10/332,675 : **DECISION ON PETITION**
Filed: January 10, 2003. :
Attorney Docket No. PF000068 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 7, 2009, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 17, 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 December 18, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of \$1620, 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 Technology Center.

This application is being referred to Technology Center AU 2436 for appropriate action by the Examiner in the normal course of business on the reply received May 7, 2009.


April M. Wise
Petitions Examiner
Office of Petitions



18 NOV 2003

UNITED STATES PATENT AND TRADEMARK OFFICE



#4

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

Wilburn Chesser
Arent Fox Kitner Plotkin & Kahn, PLLC
1050 Connecticut Avenue, NW, Suite 400
Washington, DC 20036-6000

In re Application of	:	
ASTON, et al.	:	
U.S. Application No.: 10/332,677	:	
PCT No.: PCT/GB01/03068	:	DECISION ON PETITION
Int. Filing Date: 11 July 2001	:	
Priority Date: 11 July 2000	:	UNDER 37 CFR 1.47(a)
Attorney Docket No.: LCO-0006-US	:	
For: PRESSURE TRANSDUCER	:	

This decision is in response to applicant's "Petition Under 37 CFR 1.47(a)" filed 27 October 2003 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 11 July 2001, applicant filed international application PCT/GB01/03068, which claimed priority of an earlier application filed 11 July 2000. A copy of the International Application was forwarded to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 17 January 2002. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 11 January 2003.

On 13 January 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a First Preliminary Amendment. An executed oath or declaration was not included.

On 05 August 2003, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees

On 27 October 2003, applicant responded with the present petition to accept the combined declaration and power of attorney without the signature of joint inventor Rodney David

Greenough accompanied by a declaration executed by the remaining joint inventors on their own behalf and on the behalf of the non-signing joint inventor.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(i), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. With the filing of the present petition and accompanying papers, applicant has satisfied all four items and it is appropriate to grant the petition under 37 CFR 1.47(a).

Regarding item (1), applicant has provided payment of the appropriate petition fee.

As to item (2), applicant has provided a signed declaration from Keith Loven detailing efforts to obtain the signature of Mr. Greenough; including sending a complete set of application papers to Mr. Greenough. In addition, applicant has provided copies of correspondence from Mr. Greenough in which returns the subject documents unsigned.

Regarding item (3), applicant has supplied a statement of the last known address of Mr. Greenough.

As to item (4), applicant has a combined declaration and power of attorney executed by the remaining joint inventors on their own behalf and on the behalf of the non-signing joint inventor.

Accordingly, applicant has satisfied all four items detailed above and it is proper to grant applicant's petition at this time.

CONCLUSION

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

The application has an international filing date of 11 July 2001 under 35 U.S.C. 363, and will be given a date of **27 October 2003** under 35 U.S.C. 371 (c).

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

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

Application No.: 10/332,677

3

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

A handwritten signature in black ink, appearing to read 'Derek A. Putonen'.

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

18 NOV 2003



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mr. Rodney David Greenough
The Dell, 34 Church Lane
Bonby, Lincolnshire DN20 OPS
GREAT BRITAIN

In re Application of
ASTON, et al.
U.S. Application No.: 10/332,677
PCT No.: PCT/GB01/03068
Int. Filing Date: 11 July 2001
Priority Date: 11 July 2000
Attorney Docket No.: LCO-0006-US
For: PRESSURE TRANSDUCER

Dear Mr. Greenough:

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

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

A handwritten signature in black ink, appearing to read "Derek A. Putonen".

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration

Wilburn Chesser
Arent Fox Kitner Plotkin & Kahn, PLLC
1050 Connecticut Avenue, NW, Suite 400
Washington, DC U.S.A. 20036-6000



UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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JAN 3 1 2008

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

In re Application of
Per Fischer
Serial No.: 10/332,712
Filed: June 30, 2003
Attorney Docket No.: FISCHER13

:
:
: SUSPENSION OF ACTION
:
:

This is in reply to the petition filed on January 22, 2008 under 37 CFR 1.181 to (i) approve the suspension requested in the RCE of October 23, 2007 nunc pro tunc, (2) enter the enclosed supplemental response, and (3) vacate the final rejection mailed December 18, 2007 on the grounds that it was premature.

BACKGROUND

On October 23, 2007, applicants filed an RCE in response to a final Office action of July 23, 2007, which, in section "Ib", said that an amendment was enclosed and, in section "2a", that suspension was requested for three months. The amendment, on page 13r also put the examiner on notice that suspension was requested.

In response thereto, the examiner issued a non-final Office action on December 18, 2007 in response to the RCE that was filed October 23, 2007.

DISCUSSION

In view of the above, the petition for suspension of action is **GRANTED** for a period of three months, as requested, from the date of the filing of the RCE which was October 23, 2007. Additionally, the supplemental response will be entered and the non-final Office action of December 18, 2007 is vacated on the grounds it was premature.

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

The petition fee of \$200.00 for the Suspension of action under 37 CFR 1.103 (c) will be charged to applicants' Deposit Account 02-4035, as directed.

Should there be any questions with respect to this action, please contact the examiner or Marianne C. Seidel, by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at Office general facsimile number, 571-273-8300.



Marianne C. Seidel
Quality Assurance Specialist/Program Manager
Technology Center 1600



UNITED STATES PATENT AND TRADEMARK OFFICE

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

DARIN J. GIBBY
TOWNSEND AND TOWNSEND AND CREW
8TH FLOOR
TWO EMBARCADERO CENTER
SAN FRANCISCO, CA 94111

COPY MAILED

OCT 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Aamer Ali Baig, et al.	:	
Application No. 10/332,724	:	DECISION ON PETITION
Filed: September 12, 2003	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 020375-000201US	:	AND 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), filed May 22, 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 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. 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) 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)(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.

The petition does not comply with item (1) above.

This pending nonprovisional application was filed on September 12, 2003, which is not within twelve months of the filing date of the prior-filed provisional application, Application No. 60/256,127, which was filed on December 15, 2000, and for which priority is claimed.



DARIN J. GIBBY
TOWNSEND AND TOWNSEND AND CREW
8TH FLOOR
TWO EMBARCADERO CENTER
SAN FRANCISCO, CA 94111

COPY MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Aamer Ali Baig, et al.	:	DECISION ON PETITION
Application No. 10/332,724	:	UNDER 37 CFR 1.78(a)(3) AND
Filed: September 12, 2003	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 020375-000201US	:	

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed December 15, 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 amendment.

The petition is not signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Tadd F. Wilson 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.

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 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.

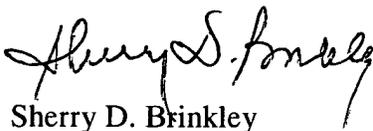
All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

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.

Any questions concerning this matter may be directed to the undersigned 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 3625 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.



Sherry D. Brinkley
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

Table with 7 columns: APPLICATION NUMBER, FILING or 371(c) DATE, GRP ART UNIT, FIL FEE REC'D, ATTY.DOCKET.NO, TOT CLAIMS, IND CLAIMS. Row 1: 10/332,724, 09/12/2003, 3625, 2044, 020375-000201US, 63, 8

CONFIRMATION NO. 8938

CORRECTED FILING RECEIPT



Darin J Gibby
Townsend and Townsend and Crew
8th Floor
Twp Embarcadero Center
San Francisco, CA 94111

Date Mailed: 03/02/2009

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)

- Aamer Ali Baig, Hinsdale, IL;
James E. Cowell, Littleton, CO;
Peter M. Karas, Lakewood, CO;
Cheryl L. Neofytides, Floral Park, NY;
Matt F. Golub, Atlanta, GA;
James R. Yoder, Chicago, IL;
Susan M. Milberger, Englewood, CO;
Jeff D. Sherrard, Lakewood, CO;
Amy M. Dunker, Castle Rock, CO;
Jackie M. MacFarlane, Parker, CO;
Eric L. Platte, Castle Rock, CO;
Susan F. Abrahams, Atlanta, GA;

Power of Attorney:

Darin Gibby--38464

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US01/22179 07/11/2001
which claims benefit of 60/256,127 12/15/2000
and is a CIP of 09/613,615 07/11/2000 PAT 7,376,587

Foreign Applications

If Required, Foreign Filing License Granted: 02/27/2009

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/332,724**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Wide area network person-to-person payment

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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Darin J Gibby
Townsend and Townsend and Crew
8th Floor
Twp Embarcadero Center
San Francisco, CA 94111

Mail Date: 04/21/2010

Applicant	: Aamer Ali Baig	: DECISION ON REQUEST FOR
Patent Number	: 7606734	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/332,724	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1507** 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.



KENYON & KENYON
ONE BROADWAY
NEW YORK NY 10004

COPY MAILED

MAR 22 2005

OFFICE OF PETITIONS

In re Application of :
Holger Rapp :
Application No. 10/332,729 : ON PETITION
Filed: August 19, 2003 :
Attorney Docket No. 10191/2920 :

This is a decision on the petition to revive under 37 CFR 1.137(a), filed March 11, 2005.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely reply to the Notice of Allowance and Notice of Allowability, both mailed September 28, 2004. These Notices set a three month period for reply for issue fee transmittal and the submission of corrected drawings. No extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the above-identified application became abandoned on December 29, 2004. A Notice of Abandonment was mailed on February 11, 2005.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(1); and (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable. The instant petition lacks 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."¹

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, however, does not constitute "unavoidable" delay.²

With regards to item (3), petitioner states that he did not receive the Notice of Allowance and Notice of Allowability mailed May 2, 2002. To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed.³ A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."⁴ "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."⁵ Here, petitioner did not submit a docket record showing all replies docketed for the date of December 28, 2004. Rather, petitioner submitted a mail log evidencing all correspondence received from the period of September 29, 2004 to October 8, 2004.

With regards to item (1), petitioner has not submitted corrected drawings as required by the Notice of Allowability. A courtesy copy of the Notice of Allowance and Notice of Allowability are enclosed.

¹ In re Mattulath, 38 App. D.C. 497, 514-15 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

² See Haines, 673 F. Supp. at 317, 5 U.S.P.Q. 2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

³ See MPEP 711.03(c) (II).

⁴ MPEP 711.03(c) (II) (emphasis added).

⁵ Id.

Alternative Venue and Other Matters:

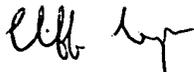
While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

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

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

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

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



Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Notice of Allowance and accompanying pages (4 pages)
 Notice of Allowability and accompanying pages (4 pages)



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NEW YORK NY 10004

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AUG 16 2005

OFFICE OF PETITIONS

In re Application of :
Holger Rapp :
Application No. 10/332,729 : ON PETITION
Filed: August 19, 2003 :
Attorney Docket No. 10191/2920 :

This is a decision on the renewed petition to revive under 37 CFR 1.137(a), filed May 17, 2005.

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

The above-identified application became abandoned for failure to timely reply to the Notice of Allowance and Notice of Allowability, both mailed September 28, 2004. These Notices set a three month period for reply for issue fee transmittal and the submission of corrected drawings. No extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the above-identified application became abandoned on December 29, 2004. A Notice of Abandonment was mailed on February 11, 2005. Applicant filed a petition to revive under 37 CFR 1.137(a) on March 11, 2005. However, because applicant failed to submit a proper document report evidencing non-receipt of the Notice of Allowance and Notice of Allowability, the petition was dismissed in a decision mailed on March 22, 2005.

Petition Under 37 CFR 1.137(a):

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(1); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 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). 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

On renewed petition, petitioner has submitted a satisfactory docket report indicating that the Notice of Allowance and Notice of Allowability were not received.

In view of the above, it is concluded that petitioner has met his burden of establishing that the delay was unavoidable.

Receipt of the issue fee, the Rule 312 Amendment, and the drawings is acknowledged.

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).

Application No. 10/332,729

Page 3

The application is being forwarded to Group Art Unit 3754 for consideration of the Rule 312 Amendment.

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

A handwritten signature in cursive script, appearing to read "Cliff Congo".

Cliff Congo
Petitions Attorney
Office of Petitions



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FOGG & POWERS LLC
10 SOUTH FIFTH STREET
SUITE 1000
MINNEAPOLIS, MN 55402

COPY MAILED

FEB 28 2008

In re Application of
Israel Beniaminy, et al.
Application No. 10/332,730
Filed: August 29, 2003
Attorney Docket No. 135.004US01

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OFFICE OF PETITIONS
ON PETITION

This is a decision in response to the petition, filed November 15, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 31, 2007. A Notice of Abandonment was mailed on September 4, 2007. In response, on November 15, 2007, the present petition was filed.

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 accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of \$770; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2129 for consideration of the amendment filed November 15, 2007.

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


Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: DAVID N. FOGG
FOGG & POWERS LLC
P.O. BOX 581339
MINNEAPOLIS, MN 55458-1339



THOMAS L MCMASTERS
FREDRIKSON & BYRON
4000 PILLSBURY CENTER
200 SOUTH SIXTH STREET
MINNEAPOLIS MN 55402-1425

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MAY 01 2006
OFFICE OF PETITIONS

In re Application of
Timothy B. Demers et al.
Application No. 10/332,754
Filed: October 9, 2003
Attorney Docket No. 45342.1.2.2

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)¹, filed March 9, 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 July 27, 2005. A response was filed December 29, 2005 with a two month extension of time request however, by Advisory Action of February 6, 2006, petitioner was advised that the response did not place the application in condition for allowance. Although this application became abandoned on October 28, 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 requests that the previously filed amendment, filed December 29, 2005, be used as the submission required under 37 CFR 1.114.

Additionally, the record reveals that a one month extension of time was filed with the

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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).

instant petition, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the \$60.00 extension of time fee submitted with the petition on March 9, 2006, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 06-1910.

The application is being forwarded to Technology Center 2141 for processing of the RCE.

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

A handwritten signature in cursive script that reads "Patricia Faison-Ball". The signature is written in black ink and is positioned above the printed name and title.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

#3



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ALEXANDRIA, VA 22313-1450
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09 JUL 2003

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Application of
PULLA et al.
Serial No.: 10/332,759
PCT No.: PCT/IN01/00042
Int. Filing Date: 19 March 2001
Priority Date: 09 May 2000
Attorney's Docket No.: 13102.0008USWO
For: AN IMPROVED PROCESS FOR THE PREPARATION OF
QUINOLONE DERIVATIVES

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

The petition to revive under 37 CFR 1.137(b) filed 10 January 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "the delay in pursuing the national stage to the present date was unintentional" has been interpreted as meaning that "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office.

A review of the application file reveals that the basic national fee of \$900 has been paid. The required petition fee of \$1300 has also been paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. A declaration, in compliance with 37 CFR 1.497(a) & (b), and \$130 surcharge for filing the declaration after the thirty month period was filed in the USPTO on 28 February 2003. The 35 U.S.C. 371 date is **28 February 2003**.

Cynthia M. Kratz
Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467

19 AUG 2003

UNITED STATES PATENT AND TRADEMARK OFFICE



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

John S. Pratt, Esq.
Kilpatrick Stockton LLP
1100 Peachtree Street, Suite 2800
Atlanta, GA 30309-4530

In re Application of :
Martin et al. :
US Application No.: 10/332,762 :
PCT Application No.: PCT/GB01/02450 :
International Filing Date: 1 June 2001 :
Priority Date: 6 June 2000 :
Attorney's Docket No.: 41577/281742 :
For: POPULATION MONITORING SYSTEM :

**DECISION ON
PETITION FOR REVIVAL
UNDER 37 CFR 1.137(b)**

The petition to revive under 37 CFR 1.137(b), filed on 10 January 2003 in the above-captioned application, is hereby **GRANTED** as follows.

On 1 June 2001, Applicants filed international application PCT/GB01/02450, which claimed priority of an earlier application filed on 6 June 2000. A copy of the international application was communicated from the International Bureau to the USPTO on 13 December 2001. A demand for international preliminary examination, in which the United States was elected, was filed on 4 January 2002, prior to the expiration of nineteen months from the 6 June 2000 priority date. The thirty-month period for paying the basic national fee ended at midnight on 6 December 2002.

The basic national fee required by 37 CFR 1.495(b) was not submitted on or before 6 December 2002. Accordingly, the international application became abandoned as to the United States on 7 December 2002.

The instant petition is accompanied by:

- (1) A transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371;
- (2) The \$900 basic national fee and the \$1,300 petition fee;
- (3) A statement that the entire delay in filing the basic national fee from its due date until the filing of the instant petition under 37 CFR 1.137(b) was unintentional.

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

The request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the national stage in the United States of America.

Applicants' claim for priority is acknowledged. The application has an international filing date of 1 June 2001 under 35 U.S.C. 363.

Also submitted with the instant petition are: an unexecuted declaration, the \$130 surcharge under 37 CFR 1.492(e) for lacking an acceptable oath or declaration upon commencement of the national stage, and the extra claims fee.

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



Leonard Smith
PCT Legal Examiner
PCT Legal Office



RC Tang
Petitions Attorney
PCT Legal Office
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OBLON, SPIVAK, MCCLELLAND,
MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

COPY MAILED

NOV 29 2005

In re Application of : **OFFICE OF PETITIONS**
Fujiwara et al. :
Application No. 10/332,770 :
Filed: January 13, 2003 : ON PETITION
Title of Invention: RESINS FOR :
RESISTS AND CHEMICALLY :
AMPLIFIABLE RESIST COMPOSITIONS :

This is a decision on the petition filed July 13, 2005, pursuant to 37 C.F.R. §1.59(b), requesting that a Letter Submitting Drawing Sheet(s) and Replacement Drawing 5 Sheets (Figs. 1-5) filed June 30, 2005 be expunged from the file of the above-identified application.

The petition is dismissed as moot.

The instant petition

Applicant files the instant petition and avers the Letter Submitting Drawing Sheet(s) and Replacement Drawing 5 Sheets (Figs. 1-5) filed June 30, 2005, were unintentionally submitted in the above-identified application, but were clearly not intended for the above-identified application because the above-identified application does not contain drawings.

Applicant is advised that, upon receipt of the Letter Submitting Drawing Sheet(s) and Replacement Drawing 5 Sheets (Figs. 1-5) filed June 30, 2005, which identified a different application serial number, the Letter and Replacement drawings were filed in the application identified in the Letter Submitting Drawing Sheet(s) and Replacement Drawing 5 Sheets (Figs. 1-5), and not in the above-identified application.

Accordingly, the petition is dismissed as moot.

The petition fee, \$200, will not be refunded since the petition was not necessitated by an error on the part of this Office. The balance of the petition fee, \$70, has been charged to Applicant's deposit account as authorized in the petition.

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 Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

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



Derek L. Woods
Attorney
Office of Petitions

03 NOV 2003

#6



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LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6780

In re Application of	:	
WULF et al.:	:	
Application No.: 10/332,829	:	DECISION ON REQUEST
PCT No.: PCT/EP01/06900	:	
Int. Filing Date: 19 June 2001	:	UNDER
Priority Date: 12 July 2000	:	
Attorney Docket No.: 220234	:	37 CFR 1.497(d)
For: DEVICE FOR GUIDING SHEETS	:	

This decision is in response to the submission filed via facsimile transmission on 26 August 2003, which has been treated as a petition under 37 CFR 1.497(d).

BACKGROUND

On 19 June 2001, applicant filed international application PCT/EP01/06900, which designated the United States and claimed a priority date of 12 July 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 31 January 2002. A Demand for international preliminary examination, in which the United States was elected, was filed on 02 February 2002, which was within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 13 January 2003 (12 January 2003 being a Sunday).

On 13 January 2003, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee and an unexecuted declaration of inventors.

On 10 February 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the declaration of the inventor submitted 13 January 2003 was not in compliance with 37 CFR 1.497(a)-(b) because it was not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68 and that the surcharge under 37 CFR 1.492(e) for failure to provide the oath or declaration later than thirty months from the priority date was required. The NOTIFICATION set a TWO (2) MONTH extendable period for response.

On 24 February 2003, applicants submitted a second declaration of inventors and the surcharge under 37 CFR 1.492(e).

On 09 May 2003, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating, *inter alia*, that the declaration of inventors filed 24 February 2003 was not in compliance with 37 CFR 1.497(a)-(b) because it was not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68 and two inventors were listed on the declaration who were not listed in the international application. A time limit of one month from the date of mailing of the PCT/DO/EO/916 or within the time remaining in the response set forth in the PCT/DO/EO/905, whichever is longer, was set.

On 26 August 2003, applicants filed the instant submission which has been treated as a petition under 37 CFR 1.497(d). The submission was accompanied by, *inter alia*, a petition/fee for a five month extension of time and a declaration of inventors.

DISCUSSION

37 CFR 1.497(d), provides:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92^{bis} subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:

- (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
- (2) The processing fee set forth in Sec. 1.17(i); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see Sec. 3.73(b) of this chapter); and
- (4) Any new oath or declaration required by paragraph (f) of this section.

Applicants have satisfied items (1) and (2). As to item (4), a new declaration is not required by 37 CFR 1.497(f) in the instant situation. Item (3) has not been satisfied, however. It is not clear from the submission filed 26 August 2003 whether an assignment has been executed by any of the originally named inventors.

Declaration of Inventors

The declaration of inventors filed 26 August 2003 is not in compliance with 37 CFR 1.497(a)-(b). The declaration includes two third pages and two fifth pages. Each declaration must be complete in and of itself. I.e., each declaration must identify, *inter alia*, each inventor. It is not clear from the declaration filed 26 August 2003 that each declaration presented to and signed by the inventors was complete. It appears that seven inventors signed at least two separate declarations and possibly three separate declarations. However, only one declaration, which contains two third pages and two fifth pages of a declaration, was provided. Applicants must submit either a single declaration executed by all of the inventors or in the alternative a copy of the entire declaration for each signed declaration.

CONCLUSION

The request under 37 CFR 1.497(d) is **DISMISSED** for the reasons set forth above.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.497(d)." No additional petition fee is required.

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



Daniel Stemmer
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Legal Administration
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03 MAR 2004

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180 NORTH STETSON AVENUE
CHICAGO IL 60601-6780

In re Application of	:	
WULF et al.:	:	
Application No.: 10/332,829	:	DECISION ON REQUEST
PCT No.: PCT/EP01/06900	:	
Int. Filing Date: 19 June 2001	:	UNDER
Priority Date: 12 July 2000	:	
Attorney Docket No.: 220234	:	37 CFR 1.497(d)
For: DEVICE FOR GUIDING SHEETS	:	

This decision is in response to the submission filed via facsimile transmission on 21 January 2004.

BACKGROUND

On 19 June 2001, applicant filed international application PCT/EP01/06900, which designated the United States and claimed a priority date of 12 July 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 31 January 2002. A Demand for international preliminary examination, in which the United States was elected, was filed on 02 February 2002, which was within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 13 January 2003 (12 January 2003 being a Sunday).

On 13 January 2003, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee and an unexecuted declaration of inventors.

On 10 February 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the declaration of the inventor submitted 13 January 2003 was not in compliance with 37 CFR 1.497(a)-(b) because it was not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68 and that the surcharge under 37 CFR 1.492(e) for failure to provide the oath or declaration later than thirty months from the priority date was required. The NOTIFICATION set a TWO (2) MONTH extendable period for response.

On 24 February 2003, applicants submitted a second declaration of inventors and the surcharge under 37 CFR 1.492(e).

On 09 May 2003, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating, *inter alia*, that the declaration of inventors filed 24 February 2003 was not in compliance with 37 CFR 1.497(a)-(b) because it was not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68 and two inventors were listed on the declaration who were not listed in the international application. A time limit of one month from the date of mailing of the PCT/DO/EO/916 or within the time remaining in the response set forth in the PCT/DO/EO/905, whichever is longer, was set.

On 26 August 2003, applicants filed a submission which was treated as a petition under 37 CFR 1.497(d). The submission was accompanied by, *inter alia*, a petition/fee for a five month extension of time and a declaration of inventors.

On 03 November 2003, a decision was mailed dismissing applicants' petition under 37 CFR 1.497(d). Specifically, it was noted that it was not clear whether an assignment had been executed by any of the originally named inventors. It was also noted that the declaration of inventors filed 26 August 2003 was not in compliance with 37 CFR 1.497(a)-(b).

On 21 January 2004, applicants filed the instant submission, which was accompanied by a copy of a "Renewed Petition under 37 C.F.R. § 1.497(d) and Submission of Substitute Inventors' Declaration", a declaration of inventors, a date-stamped postcard receipt, and a copy of the inventors' assignment.

DISCUSSION

Petition Under 37 CFR 1.181

Applicants have provided sufficient evidence to establish that on 04 January 2004 applicants filed the declaration of inventors. The proof is in the form of the copy of the receipt for the above-identified application which bears a United States Patent and Trademark Office (USPTO) date stamp of 04 January 2004 and which itemizes the declaration and identifies the above-captioned docket number and application number. Further, practitioner states that the copy of the declaration filed 21 January 2004 is a true copy of the declaration originally filed 04 January 2004. Therefore, in view of the date-stamped receipt and practitioner's statement, the declaration received on 21 January 2004 may properly be accepted as originally received in the USPTO on 04 January 2004.

Renewed Petition Under 37 CFR 1.497(d)

37 CFR 1.497(d), provides:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92^{bis} subsequent to the execution

of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:

- (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
- (2) The processing fee set forth in Sec. 1.17(i); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see Sec. 3.73(b) of this chapter); and
- (4) Any new oath or declaration required by paragraph (f) of this section.

As noted in the decision mailed 03 November 2003, applicants have satisfied items (1) and (2). As to item (4), a new declaration is not required by 37 CFR 1.497(f) in the instant situation. As to item (3), MPEP § 324 states in part,

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 acceptable, such as vice-president for sales, executive vice-president, assistant treasurer, vice-chairman of the board of directors. A person having a title (manager, director, 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 1.34(b)) from the inventors or the assignee to a patent practitioner to prosecute a patent application does not make the 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.

The title of the Authorized Officer signing the "ASSENT OF ASSIGNEE OF ENTIRE INTEREST TO CORRECTION AND ADDITION OF INVENTORS" is "Patent Manager". As indicated in section (A) reproduced from MPEP § 324 above, this title does not clearly set forth that person as an officer of the assignee and this person is not presumed to have authority to sign the submission on behalf of the assignee. The bottom left hand of the page includes the type-written indication "Hartmut Hubner, Vice-President Design & Development, 19.12.2003". This type-written indication is just below a stamp of the company's name and address. Above the company's name and address is a signature. However, it is not clear whose signature this is and in what capacity the person is signing. The document itself indicates the authorized officer as

Dietmar Stahl rather than Hartmut Hubner. Accordingly, item (3) has not been satisfied.

Declaration of Inventors

The declaration of inventors filed 04 January 2004 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

The request under 37 CFR 1.497(d) is **DISMISSED**, without prejudice, for the reasons set forth above.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.497(d)." No additional petition fee is required.

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



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16 JUN 2004

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CHICAGO IL 60601-6780

In re Application of	:	
WULF et al.:	:	
Application No.: 10/332,829	:	DECISION ON REQUEST
PCT No.: PCT/EP01/06900	:	
Int. Filing Date: 19 June 2001	:	UNDER
Priority Date: 12 July 2000	:	
Attorney Docket No.: 220234	:	37 CFR 1.497(d)
For: DEVICE FOR GUIDING SHEETS	:	

This decision is in response to the "RENEWED PETITION UNDER 37 C.F.R. § 1.497(d)" filed in the United States Patent and Trademark Office on 15 April 2004.

BACKGROUND

On 19 June 2001, applicant filed international application PCT/EP01/06900, which designated the United States and claimed a priority date of 12 July 2000. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 31 January 2002. A Demand for international preliminary examination, in which the United States was elected, was filed on 02 February 2002, which was within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 13 January 2003 (12 January 2003 being a Sunday).

On 13 January 2003, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee and an unexecuted declaration of inventors.

On 10 February 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the declaration of the inventor submitted 13 January 2003 was not in compliance with 37 CFR 1.497(a)-(b) because it was not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68 and that the surcharge under 37 CFR 1.492(e) for failure to provide the oath or declaration later than thirty months from the priority date was required. The NOTIFICATION set a TWO (2) MONTH extendable period for response.

On 24 February 2003, applicants submitted a second declaration of inventors and the surcharge under 37 CFR 1.492(e).

On 09 May 2003, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating, *inter alia*, that the declaration of inventors filed 24 February 2003 was not in compliance with 37 CFR 1.497(a)-(b) because it was not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68 and two inventors were listed on the declaration who were not listed in the international application. A time limit of one month from the date of mailing of the PCT/DO/EO/916 or within the time remaining in the response set forth in the PCT/DO/EO/905, whichever is longer, was set.

On 26 August 2003, applicants filed a submission which was treated as a petition under 37 CFR 1.497(d). The submission was accompanied by, *inter alia*, a petition/fee for a five month extension of time and a declaration of inventors.

On 03 November 2003, a decision was mailed dismissing applicants' petition under 37 CFR 1.497(d). Specifically, it was noted that it was not clear whether an assignment had been executed by any of the originally named inventors. It was also noted that the declaration of inventors filed 26 August 2003 was not in compliance with 37 CFR 1.497(a)-(b).

On 21 January 2004, applicants filed a submission, which was accompanied by a copy of a "Renewed Petition under 37 C.F.R. § 1.497(d) and Submission of Substitute Inventors' Declaration", a declaration of inventors, a date-stamped postcard receipt, and a copy of the inventors' assignment.

On 03 March 2004, a decision was mailed according the copies of the documents filed 21 January 2004 a receipt date in the USPTO of 04 January 2004 and dismissing applicants' renewed petition under 37 CFR 1.497(d). Specifically, it was noted that it was not clear whether the "ASSENT OF ASSIGNEE OF ENTIRE INTEREST TO CORRECTION AND ADDITION OF INVENTORS" was signed by a person having authority to sign on behalf of the assignee.

On 15 April 2004, applicants submitted the instant "RENEWED PETITION UNDER 37 C.F.R. § 1.497(d)" which was accompanied by a second "ASSENT OF ASSIGNEE OF ENTIRE INTEREST TO CORRECTION AND ADDITION OF INVENTORS".

DISCUSSION

37 CFR 1.497(d), provides:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92^{bis} subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:

(1) A statement from each person being added as an inventor and from each person being

deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;

- (2) The processing fee set forth in Sec. 1.17(i); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see Sec. 3.73(b) of this chapter); and
- (4) Any new oath or declaration required by paragraph (f) of this section.

As noted in the decision mailed 03 November 2003, applicants have satisfied items (1) and (2). As to item (4), a new declaration is not required by 37 CFR 1.497(f) in the instant situation. Item (3) is now satisfied.

Declaration of Inventors

The declaration of inventors filed 04 January 2004 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

The request under 37 CFR 1.497(d) is **GRANTED** for the reasons set forth above.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision, that is for processing the application in the name of Peter WULF, Edgar DORSAM, Frank SEIDEL, Rainer GEBHARDT, Udo TRILLIG, Thomas LITTEREST, and Thomas LUDWIG as inventors and for according the application a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **04 January 2004**.



Daniel Stemmer
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07 MAR 2003

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William C. Coppola
AVENTIS PHARMACEUTICALS, INC.
Route 202-206
PO Box 6800
Bridgewater, N.J. 08807

In re Application of: AUGUST, Paul, R., et al.	:	
U.S. Application No.: 10/332,834	:	DECISION ON PETITION TO
PCT No.: PCT/US01/21269	:	REVIVE ABANDONED
International Filing Date: 05 July 2001	:	APPLICATION UNDER 37
Priority Date: 07 July 2000	:	CFR 1.137(b)
Attorney's Docket No.: USA3932US PCT	:	
For: TRANSPOSON MEDIATED MULTIPLEX	:	
SEQUENCING	:	

The petition to revive under 37 CFR 1.137(b) filed 13 January 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3). Applicants have now submitted the authorization to charge Deposit Account No. 18-1982 for the basic national fee¹ and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing, including issuance of a Notification Of Missing Requirements indicating that an executed oath or declaration in compliance with 37 CFR 1.497 and the \$130 surcharge for late filing of the oath or declaration are required.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
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¹ It is noted that the Form 1390 filed by applicant identified the basic national fee as \$750. The proper basic national fee here is \$1,060 (37 CFR 1.492(a)(3)). Based on the authorization to charge for all required fees contained in the Form 1390, Deposit Account No. 18-1982 will be charged the proper \$1,060 fee.



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SUITE 1100
WASHINGTON DC 20001

COPY MAILED

OCT 02 2006

OFFICE OF PETITIONS

In re Application of

Peter Dam Nielsen

:

Application No. 10/332,862

: DECISION ON PETITION

Filed: April 29, 2003

:

Attorney Docket No. 1076.42392X00

This is a decision on the petition under 37 CFR 1.137(b), filed May 31, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 6, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on January 7, 2006.

The amendment filed May 31, 2006, is noted.

The application is being forwarded to Technology Center 2600, GAU 2617 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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Fay Sharpe LLP
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The Halle Building
Cleveland, OH 44115-1843

MAILED

JAN 29 2009

In re Application of
Karin Klokkers, et. al.
Application No. 10/332,864
Filed: February 28, 2003
Attorney Docket No. 2198/0M398

OFFICE OF PETITIONS
DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

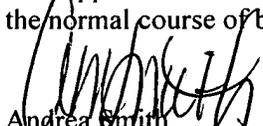
The application became abandoned for failure to reply in a timely manner to the Non-Final Office Action mailed, April 4, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136 (a) were obtained. Accordingly, the application became abandoned on July 5, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of \$1620, and (3) a proper statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 1611 for appropriate action by the Examiner in the normal course of business on the reply received.


Andrea Smith
Petitions Examiner
Office of Petitions

cc: Scott A. McCollister
Fay Sharpe LLP
1100 Superior Avenue, 7th Fl.
Cleveland, OH 44113



14 JUL 2003

Steven J. Hultquist
Intellectual Property/Technology Law
P.O. Box 14329
Research Triangle Park, NC 27709

In re Application of	:	
Altevogt et al.	:	
PCT No.: PCT/EP01/07924	:	DECISION ON
Int. Filing Date: 10 July 2001	:	
Claimed Priority Date: 10 July 2000	:	PETITION UNDER
Attorney's Docket No.: 4121-148	:	
For: Diagnostic And Therapeutic Methods	:	37 CFR 1.10 (d)
Based On The L1 Adhesion Molecule	:	
For Ovarian And Endometrial Tumors	:	

This is in response to applicant's "Request For Correction Of USPTO Records..." filed on 05 February 2003, which is being treated as a petition under 37 CFR 1.10(d).

BACKGROUND

On 10 July 2001, applicants filed this international application and claimed a priority date of 10 July 2000. The International Bureau transmitted a copy of the published international application to the USPTO on 17 January 2002. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period to pay the basic national fee in the United States expired as of midnight on 10 January 2003.

On 10 January 2003, applicants allegedly deposited, inter alia, the basic national fee with the United States Postal Service (USPS) for delivery to the USPTO via "Express Mail."

On 05 February 2003, applicants filed the instant petition.

DISCUSSION

The correspondence allegedly mailed as "Express Mail" was marked by the USPTO as received on 13 January 2003, reflecting the "date-in" of "1 13 03" appearing on the "Express Mail" mailing label, number EV262871192US. Petitioner "requests that the correspondence (including basic national fee) in question be regarded as filed on 10 January 2003 rather than 13 January 2003 because the "date-in" of 13 January 2003 was allegedly recorded in error. As evidence,

37 CFR 1.10(d) provides that

Any person mailing correspondence under this section that was received by the Office

and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

- (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
- (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
- (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

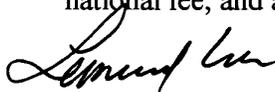
The instant "Response" satisfies the requirements of 37 CFR 1.10(d)(1) and (2).

Regarding 37 CFR 1.10(d)(3), petitioner relies upon a copy of "Express Mail" mailing label number EV262871192US, which shows a USPS plug stamp of "JAN 10 2003." Petitioner also provides an affidavit signed by the USPS employee who recorded the "date-in," indicating that "the Date In on the Express Mail label no. EV 262871192 US was incorrectly entered by her as '1 13 03' and should have been entered by her as '1 10 03'." In view of the evidence as a whole, it would be appropriate to grant the correspondence a filing date as of the date of the USPS plug stamp, 10 January 2003.

DECISION

Applicant's petition is GRANTED.

This application is being returned to the National Stage Processing Branch for further processing, including correction of USPTO records to show that the Transmittal Letter, basic national fee, and accompanying correspondence were filed on 10 January 2003.



Leonard Smith
PCT Legal Examiner
PCT Legal Office



George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459



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www.uspto.gov

Paper No. 7

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA PA 19103

MAIL

FEB - 9 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Robert A. STERN, et al. :
Application No. 10/332,889 :
Filed: May 15, 2003 :
For: **A SYSTEM AND METHOD FOR** :
DIRECTORY SERVICES AND COMMERCE :
ACROSS MULTI-PROVIDER NETWORKS :

DECISION ON PETITION
TO MAKE SPECIAL

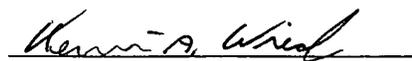
This is a decision on the request for reconsideration filed August 13, 2003, on the decision mailed August 29, 2003 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:

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

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

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


Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

09 DEC 2004

15



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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Gregory J Lavorgna
Drinker Biddle & Reath
One Logan Square
18th And Cherry Street
Philadelphia PA 19103-6996

In re Application of	:	
JOHNSON, Nicholas Dougall, et al.	:	
Application No.: 10/332,890	:	DECISION ON
PCT No.: PCT/GB01/03184	:	
Int. Filing Date: 16 July 2001	:	PETITION
Priority Date: 14 July 2000	:	
Attorney Docket No.: 182075(8830-174)	:	UNDER 37 CFR 1.181
For: CELLULAR RADIO	:	
TELECOMMUNICATIONS SYSTEMS	:	

This decision is in response to "Communication," filed in the United States Patent and Trademark Office on 26 October 2004. It has been treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 16 July 2001, applicants filed international application PCT/GB01/03184, claiming a priority date of 14 July 2000. A demand for international preliminary examination was filed on 13 February 2002. The deadline for entry into the national stage in the United States was thirty months from the priority date, or 14 January 2003.

On 14 January 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a declaration executed by the inventors.

On 05 August 2003, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors and the surcharge for late filing for the oath or declaration were required.

On 12 October 2004, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating the application went abandoned for failure to timely respond to the Notification of Missing Requirements.

On 26 October 2004, applicants filed the instant petition accompanied by a copy of the paperwork filed 14 January 2003 and a copy of a postcard receipt.

DISCUSSION

The 14 January 2003 paperwork, including the declaration, is present in the file. The Notification of Missing Requirements mailed 05 August 2003 issued in error.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is GRANTED.

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 13 January 2003 is VACATED.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 12 October 2004 is VACATED.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date is 14 January 2003.



Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

Applicants have provided a copy of their date-stamped postcard receipt. The receipt identifies the application by applicants, title of invention, and the docket number. The receipt itemizes, among other things, a Declaration and Power of Attorney. The receipt is stamped "OIPE June 25, 2003" across its face is sufficient to indicate that the declaration and power of attorney was in fact received in the Office on 25 June 2003. Therefore, applicants' request to vacate the Notification of Missing Requirements is **GRANTED**.

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



Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 703-308-6314
Facsimile: 703-308-6459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

101332917

DATE

1/19/06

Paper No.:

TO SPE OF : ART UNIT

2831

SUBJECT

: Request for Certificate of Correction on Patent No.:

6943290 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:

Four horizontal lines for entering comments.

Klean A. Bechtel 7/25/06

SPE

2831

Art Unit



01 JUL 2003

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ALEXANDRIA, VA 22313-1450
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Ladas & Parry
224 South Michigan Avenue
Chicago, IL 60604

In re Application of HILL et al	:	
U.S. Application No.: 10/332,918	:	
PCT Application No.: PCT/US01/06126	:	
Int. Filing Date: 22 February 2001	:	DECISION
Priority Date Claimed: 23 February 2000	:	
Attorney Docket No.: CU-2970 RJS	:	
For: CARRIER PACKAGE PRODUCTION	:	
SYSTEM WITH MULTIDIRECTIONAL	:	
DISTRIBUTION MODULE	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" and "Statement of Facts in Support of Filing on Behalf of Nonsigning Inventor (37 C.F.R. § 1.47)" filed 13 January 2003.

BACKGROUND

On 22 February 2001, applicant filed international application PCT/US01/06126, which claimed priority of an earlier United States application filed 23 February 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 30 August 2001.

International application PCT/US01/06126 became abandoned as to the United States for failure to timely pay the requisite basic national fee.

On 13 January 2003, applicant filed the present petition under 37 CFR 1.137(b) and the present petition under 37 CFR 1.47(a).

DISCUSSION

I. Petition Under 37 CFR 1.137(b)

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless

previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

II. Petition Under 37 CFR 1.47(a)

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted a declaration signed by the available inventors, each on his/her own behalf and on behalf of the nonsigning inventor Paul Gundlach.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged

in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The present petition sufficiently establishes that a bona fide attempt was made to present a copy of the application papers to inventor Gundlach for signature (see affidavit of Sara Potthast, ¶¶ 1, 2, and 4). In addition, the petition adequately demonstrates that Gundlach refuses to sign the application papers. Specifically, Gundlach made an express oral refusal to sign (see Potthast's affidavit, ¶ 12). Therefore, it can be concluded with reasonable certainty that Gundlach refuses to join in the application.

With regard to item (3) above, applicant has provided the requisite petition fee.

With regard to item (4) above, the petition states the last known address of the nonsigning inventor.

CONCLUSION

For the reasons set forth in §I above, the petition under 37 CFR 1.137(b) is GRANTED.

For the reasons set forth in §II above, the petition under 37 CFR 1.47(a) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 22 February 2001, and a date under 35 U.S.C. 371(c) of 13 January 2003.

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

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



Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614

Facsimile: 703-308-6459

SPE Bovernick

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

10/332,950

DATE

2/6/06

Paper No.:

TO SPE OF : ART UNIT

2874

SUBJECT

Request for Certificate of Correction on Patent No.:

6928221

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

Please complete this form and return with file, within 7 days to:

Palm location 7580, Certificates of Correction Branch - South Tower - 9A22

If response is for an IFW, return to employee (named below) via PUBSCofC Team in MADRAS.

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

Lamonte M. Newsome

Thank You For Your Assistance

Certificates of Correction Branch

Tel. No. 703-305-8309

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments:

Reviewed and approved by Examiner
Rojas on July 17, 2006.

[Signature]

[Signature] 2874

SPE

Art Unit



27 JUN 2003

LARSON & TAYLOR, PLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA, VA 22314

In re Application of BOUCHARD et al.
Application No.: 10/332,953
PCT No.: PCT/CA01/01051
Int. Filing: 19 July 2001
Priority Date: 21 July 2000
Attorney Docket No.: PO7822US00/MP
For: REMOVABLE SEATS SYSTEM

:
:
:DECISION ON PETITION
:
:
: UNDER 37 CFR 1.47(a)
:

This is a decision on applicant's petition under 37 CFR 1.47(a) filed in the United States Patent and Trademark Office (USPTO) on 14 January 2003.

BACKGROUND

On 14 January 2003, applicants, along with their request for entry into U.S. national stage, filed a petition in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signature of inventor, Paul-Andre Bouchard. The petition included the requisite petition fee, a statement of Louis Martineau regarding Mr. Bouchard's refusal to sign the declaration, and a declaration signed by the 37 CFR 1.47(a) applicants, Pierre LaForest and Pierre Gagnon, on behalf of nonsigning inventor Paul-Andre Bouchard and the last known address of Mr. Bouchard.

DISCUSSION

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

Items (1), (3) and (4) have been submitted and satisfy the requirements of 37 CFR 1.47(a).

With respect to item (2), Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP), Proof of Unavailability or Refusal, states, in pertinent part:

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being

asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP § 106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

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

When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

(Emphasis added.)

Here, Petitioner submitted a statement of facts from Louis Martineau, employee of Esperance & Martineau indicating his attempts to secure the signature of Paul-Andre Bouchard on a declaration under 37 CFR 1.63. Mr. Martineau states that on 19 December 2002, he sent an declaration and assignment to Mr. Bouchard for his signature. However, Mr. Martineau does not state that he provided a copy of the application papers (specification, including claims, drawings, as well as an oath or declaration) to Mr. Bouchard. What is required is that Mr. Bouchard be presented with a copy of all of the national stage application papers (oath and declaration, specification, including claims and drawings) for the above identified application. Furthermore, Mr. Martineau does not state that Mr. Bouchard made his oral refusal to Mr. Martineau. Any circumstances of the oral refusal should be included in the statement of facts by the person to whom the oral refusal was made. The circumstances of the presentation of the application papers

and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and to whom the refusal was made. Statement by a party not present when an oral refusal is made will not be accepted.

Petitioner has not demonstrated: (1) a *bona fide* attempt was made to present a copy of the *application papers* for U.S. application 10/332,953 (specification, including claims, drawings, and declaration) to the nonsigning inventor for his signature, sent to his last known address and Mr. Bouchard's refusal to sign these documents.

In sum, the evidence submitted does not support a finding that the nonsigning inventor refuses to sign the application for the reasons set forth above. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

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

Any reconsideration on the merits of the petition under 37 CFR §1.47(a) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.47(a)." No additional petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

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


Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467



LARSON & TAYLOR, PLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA, VA 22314

In re Application of BOUCHARD et al.
Application No.: 10/332,953
PCT No.: PCT/CA01/01051
Int. Filing: 19 July 2001
Priority Date: 21 July 2000
Attorney Docket No.: PO7822US00/MP
For: REMOVABLE SEATS SYSTEM

:
:
:DECISION ON
:
:RENEWED PETITION
:
:UNDER 37 CFR 1.47(a)

This is a decision on applicant's renewed petition under 37 CFR 1.47(a) filed in the United States Patent and Trademark Office (USPTO) on 27 August 2003.

On 14 January 2003, applicants, along with their request for entry into U.S. national stage, filed a petition in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4), requesting the acceptance of the application without the signature of inventor, Paul-Andre Bouchard.

On 27 June 2003, a decision dismissing the petition was mailed indicating that applicant had not provided sufficient proof that the non-signing inventor refused to sign the application.

On 27 August 2003, applicant filed the instant response accompanied by a declaration executed by the previously non-signing inventor, Paul-Andre Bouchard

A review of the declaration indicates that the declaration is in compliance with 37 CFR 1.497 and is acceptable.

CONCLUSION

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

This application is being forwarded to United States Designated/Elected Office for further processing. The 35 U.S.C. 371 date is **27 August 2003**.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467



07 AUG 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

In re Application of	:	
Tazaki, et al.	:	
Application No.:10/332,987	:	
PCT No.: PCT/JP01/06333	:	DECISION ON PAPERS
Intl. Filing Date: 23 July 2001	:	UNDER 37 CFR 1.42
Priority Date: 26 July 2000	:	
Attorney's Docket No.: 232302US0PCT	:	
For: LUBRICATING OIL FOR REFRIGERATORS	:	
AND HYDRAULIC FLUID COMPOSITION FOR	:	
REFRIGERATORS USING THE OIL	:	

This is a decision on the papers filed in the United States Patent and Trademark Office (USPTO) on 19 May 2003, which are being treated as a request for acknowledgment of status under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 18 March 2003, a "Notification of Missing Requirements Under 37 U.S.C. 371 in the United States Designated/Elected Office" was mailed indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required along with \$450.00 in additional fees. A two-month time limit was set for response.

On 18 March 2003, applicants filed a declaration signed by two of the three listed joint inventors on behalf of themselves and also signed by Naoko Tazaki on behalf of deceased joint inventor Toshinori Tazaki in her capacity as legal representative to inventor Toshinori Tazaki's estate.

DISCUSSION

Section 1.42 of Title 37 of the Code of Federal Regulations states, in part:

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

Section 1.497 of the Code of Title 37 of the Code of Federal Regulations further states, in pertinent part, that :

[i]f the person making the oath or declaration . . . is not the inventor . . . the oath or declaration shall state the relationship of the person to the inventor, and upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declarations shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

The declaration filed 19 May 2003, is executed by Naoko Tazaki in her capacity as legal representative of the estate of inventor Toshinori Tazaki, but it is unclear whether the declaration is indicating the citizenship, residence, and mailing address of Naoko Tazaki or Toshinori Tazaki. Section 1.497(b)(2) of the Code of Federal Regulations requires that this information be provided for both the deceased inventor and the legal representatives.

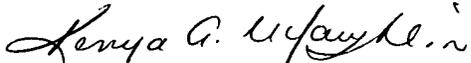
CONCLUSION

Applicant's request for status under 37 CFR 1.42 is **DISMISSED, without prejudice.**

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

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


Boris Milef
PCT Legal Examiner
PCT Legal Office


Kenya A. McLaughlin
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23 OCT 2003

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128

Norman F. Oblon
Oblon, Spivak, McClelland, Maier & Neustadt
Crystal Square Five - Suite 400
1755 Jefferson Davis Highway
Arlington, VA 22202

In re Application of	:	
TAZAKI, et al.	:	
Application No.: 10/332,987	:	DECISION ON RENEWED
PCT No.: PCT/JP01/06333	:	
Int. Filing Date: 23 July 2001	:	REQUEST UNDER
Priority Date: 26 July 2000	:	
Attorney Docket No.: 232302USOPCT	:	37 CFR 1.42
For: LUBRICATING OIL FOR	:	
REFRIGERATORS AND HYDRAULIC	:	
FLUID COMPOSITION FOR	:	
REFRIGERATORS USING THE OIL	:	

This decision is in response to applicant's "Response to Decision Under 37 C.F.R. § 1.42 Supplemental Application Data Sheet (3 pp.)" filed in United States Patent and Trademark Office (USPTO) on 10 September 2003.

BACKGROUND

On 07 August 2003, applicant was mailed a decision refusing applicant's request for status pursuant to 37 CFR 1.42 as the filed declaration did not comply with 37 CFR 1.497 (a)-(b) in that it was unclear whether the declaration was setting forth the residence, post office address and country of citizenship of the deceased inventor Toshinori Tazaki or the legal representative, Naoko Tazaki. Applicant was afforded two months to file a proper response.

On 10 September 2003, applicant filed the present renewed petition.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

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

Applicant claims that the declaration filed 19 May 2003 conforms to 37 CFR § 1.497(b)(2) as the deceased inventor and legal representative share common personal information.

Applicant has also included a supplemental application data sheet detailing the personal information of the deceased inventor and the legal representative. However, applicant's interpretation of 37 CFR § 1.497(b)(2) is incorrect. Revised 37 CFR 1.497(b)(2) requires that, in addition to the residence, citizenship, and post office address of the deceased inventor, the declaration must also provide this information (residence, citizenship, and post office address) for the signing legal representative. The declaration filed on 19 May 2003 provides the residence, citizenship, and post office address for only one individual thus it is unclear whether this information is for the legal representative or the deceased inventor. Accordingly, the declaration is not in compliance with 37 CFR 1.497(b)(2). Applicant is also directed to 37 CFR § 1.63 (a)(3) which requires that the declaration identify the citizenship of each inventor.

CONCLUSION

For the reasons detailed above, applicant's renewed submission under 37 CFR 1.42 is **REFUSED, without prejudice.**

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

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



Derek A. Putonen
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19 MAR 2004

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10

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Norman F. Oblon
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In re Application of	:	
TAZAKI, et al.	:	
Application No.: 10/332,987	:	DECISION ON RENEWED
PCT No.: PCT/JP01/06333	:	
Int. Filing Date: 23 July 2001	:	REQUEST UNDER
Priority Date: 26 July 2000	:	
Attorney Docket No.: 232302USOPCT	:	37 CFR 1.42
For: LUBRICATING OIL FOR	:	
REFRIGERATORS AND HYDRAULIC	:	
FLUID COMPOSITION FOR	:	
REFRIGERATORS USING THE OIL	:	

This decision is in response to the applicant's "Response to Decision Under 37 CFR § 1.42" filed 24 November 2003 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 23 October 2003, applicant was mailed a decision refusing applicant's request for status under 37 CFR 1.42. Applicant was afforded two months to file any request for reconsideration and advised that this period was extendable pursuant to 37 CFR 1.136(a).

On 24 November 2003, applicant filed the present response accompanied by a new combined declaration and power of attorney.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

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

Applicant has presently provided an executed declaration and power of attorney identifying Naoko Tazaki as the legal representative to the estate of the deceased joint inventor, Toshinori Tazaki. The declaration details the residence, mailing address and citizenship for both the deceased joint inventor and the legal representative and is thus in compliance with 37 CFR

1.497. As such, it is proper to grant applicant's renewed request at this time.

CONCLUSION

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

This application will be given an international application filing date of 23 July 2001 and a date of **24 November 2003** under 35 U.S.C. 371.

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



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27 JAN 2004

#6



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Rustan J. Hill
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Washington, DC U.S.A. 20036-5339

In re Application of	:	
GRASS, et al.	:	
U.S. Application No.: 10/332,999	:	DECISION ON PETITION
PCT No.: PCT/US01/23762	:	
Int. Filing Date: 30 July 2001	:	UNDER 37 CFR 1.182
Priority Date: 28 July 2001	:	
Attorney Docket No.: 109904-00098	:	
For: REGIONAL INTESTINAL	:	
PERMEABILITY MODEL	:	

This decision is in response to applicant's "Petition Under 37 C.F.R. § 1.182" filed 31 October 2003 in the United States Patent and Trademark Office (USPTO). Applicant has provided payment of the \$130.00 petition fee.

BACKGROUND

On 14 October 2003, applicant was mailed a notification informing applicant that the ninth named inventor's name listed on the filed declaration "Yong-Hee LEE" differed from that shown on the published international application, "Lee HONG." In addition, it was shown that according to a form PCT/IB/306 the inventor's name had been changed to Lee YONG. Applicant was afforded one month to file either a declaration executed by all the inventors which identified the ninth inventor with the name which appeared on the international application or in the alternative, a petition under 37 CFR 1.182 requesting that applicant's name be changed.

On 31 October 2003, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

The Manual of Patent Examining Procedure at § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include the appropriate petition fee and an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or certified copy of the court order. Applicant has not included an affidavit executed by inventor LEE with both names. As such, it is not possible to grant applicant's petition under 37 CFR 1.182 at this time.

CONCLUSION

For the reasons above, applicant's petition under 37 CFR 1.182 is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182."

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



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21 MAY 2004

#9



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Arent Fox Kitner Plotkin & Kahn, PLLC
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Washington, DC U.S.A. 20036-5339

In re Application of	:	
GRASS, et al.	:	
U.S. Application No.: 10/332,999	:	DECISION ON RENEWED
PCT No.: PCT/US01/23762	:	
Int. Filing Date: 30 July 2001	:	PETITION UNDER
Priority Date: 28 July 2001	:	
Attorney Docket No.: 109904-00098	:	37 CFR 1.182
For: REGIONAL INTESTINAL	:	
PERMEABILITY MODEL	:	

This decision is in response to applicant's "Response to Decision on Petition Under 37 C.F.R. § 1.182" filed 17 March 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 27 January 2004, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.182. Applicant was afforded two months to file any request for reconsideration.

On 17 March 2004, applicant filed the present renewed petition under 37 CFR 1.182.

DISCUSSION

Applicant's previously filed petition under 37 CFR 1.182 was dismissed as questions remained regarding the correct name of the ninth listed inventor. Applicant has presently submitted a statement from counsel addressing this concern.

Section 201.03 of the Manual of Patent Examining Procedure (MPEP) provides the procedures where a typographical or transliteration error in the spelling of an inventor's name is discovered. As discussed in that section, in such an instance a petition is not required: "Where a typographical or transliteration error in the spelling of an inventor's name is discovered, the Office should simply be notified of the error. A new oath or declaration is not required. Reference to the notification will be made on the previously filed oath or declaration." Applicant's present filing contains such a statement regarding the correct name of the ninth inventor: Yong-Hee LEE. As such, the declaration filed 05 June 2003 is acceptable.

Application No.: 10/332,999

CONCLUSION

For the reasons stated above, applicant's renewed petition under 37 CFR 1.182 is **GRANTED**.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing consistent with this decision.

The application has an international filing date of 30 July 2001 under 35 U.S.C. 363 and will be given a date of **05 June 2003** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).



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MAILED

APR 15 2005

Technology Center 2100

In re Application of:
Andre Jacobs
Application No. 10/333,007
Filed: January 13, 2003
For: SECURE PACKET-BASED DATA
BROADCASTING ARCHITECTURE

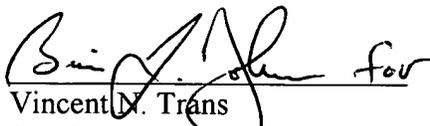
DECISION ON REQUEST TO
WITHDRAW AS ATTORNEY
OR AGENT

This is a decision on the Request To Withdraw from Representation filed November 12, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request 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.


Vincent N. Trans
Special Program Examiner
Technology Center 2100

cc: Andre L. Marais
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JAMES C. LYDON
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ALEXANDRIA VA 22314

MAILED

NOV 09 2009

OFFICE OF PETITIONS

In re Patent No. 6,908,786 :
Issue Date: June 21, 2005 :
Application No. 10/333,022 : DECISION ON PETITION
Filed: January 15, 2003 :
Attorney Docket No. BONN-097 :

This is a decision on the petition under 37 CFR 1.378(c), filed September 04, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on June 21, 2009 for failure to pay the three (3) and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

The patent file is being forwarded to Files Repository.


Michelle R. Eason
Paralegal Specialist
Office of Petitions



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AUG 04 2009

OFFICE OF PETITIONS

In re Patent No. 7,417,077 : ON PETITIONS
Lidgren et al. : under 37 CFR 1.183
Issue Date: August 26, 2008 : and
Application No. 10/333,026 : ON REQUEST FOR RECONSIDERATION
Filed: October 22, 2003 : OF PATENT TERM ADJUSTMENT
Attorney Docket No. :
02405.0271-00000 :
:

This is a decision on the 1) Petition under 37 C.F.R. 1.183, requesting that the Office suspend the rules and consider on the merits an Application for Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued; and on the 2) Application for Patent Term Adjustment - Post Grant, both filed on January 7, 2009.

The petition under 37 CFR 1.183 is dismissed.

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

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

BACKGROUND

On August 26, 2008, the above-identified application matured into U.S. Patent No. 7,417,077, with a revised patent term adjustment of 281 days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued. Patentee now petitions under 37 C.F.R. § 1.183 to (i) suspend or waive the requirement of 37 C.F.R. § 1.705(d) that an Application for Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed Request for Reconsideration of Patent Term Adjustment. Patentee references the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008) as the basis for the petition.

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

The above-referenced patent issued on August 26, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until January 7, 2009. Petitioner requests that the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

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

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

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by October 26, 2008, the date two months from the date this patent issued, August 26, 2008. Rather, on January 7, 2009, over three (3) months after the issuance of a decision in Wyeth v. Dudas on September 30, 2008, petitioner filed the instant request for waiver of the two-month requirement.

37 CFR 1.183 provides that:

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

35 U.S.C. 154, requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director, authorizes the Director to establish the procedures for requesting such reconsideration. Those procedures¹ include pursuant to 37 CFR

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

1.705(d) setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. The primary basis for requesting waiver set forth by petitioner is "the extraordinary situation presented by the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008)."

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

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

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

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

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

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

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

The Office provided notice that petitions under 37 CFR 1.182 and 1.183 or requests for certificate of corrections under 35 USC 354 and 37 CFR 1.323 or 35 U.S.C. 255 and 37 CFR 1.324 are not substitute *fora* to obtain reconsideration of a patent term adjustment determination indicated in a notice of allowance if applicant fails to submit a request for reconsideration within the time period specified in §1.705(b) or to obtain reconsideration of a patent term adjustment determination indicated in a patent if a patentee fails to submit a request for reconsideration within the time period specified in §1.705(d). See 69 Fed. Reg. 21704, 21707 (April, 22, 2004).

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

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

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

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT - POST GRANT," filed January 7, 2009. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to four hundred sixty-eight (468) days.

On August 26, 2008, the above-identified application matured into U.S. Patent No. 7,417,077 with a revised patent term adjustment of 281 days. The instant request for reconsideration was filed more than four months after the issuance of the patent, on January 7, 2009.

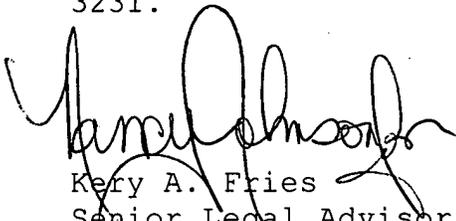
No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration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

CONCLUSION

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

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

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

A handwritten signature in black ink, appearing to read "Kery A. Fries". The signature is fluid and cursive, with a large initial "K" and "F".

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



JJGR.: 05-06

Paper No: __

CANTOR COLBURN, LLP
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JUN 05 2006

OFFICE OF PETITIONS

In re Application of :
Larsen :
Application No. 10/333,041 :
Filing Date: 22 August, 2003 :
Attorney Docket No.: GRP-0035 :

DECISION

This is a revised decision on the petition filed on 22 May, 2006, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

NOTES:

- (1) 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. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

(It is noted, however, that Petitioner may be unable to present a satisfactory showing to support a petition under 37 C.F.R. §1.181, and Petitioner's only alternative will be to file a petition under 37 C.F.R. §1.137(b).)

- (2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 14 April, 2005, with reply due absent an extension of time on or before 14 July, 2005;
- the application went abandoned after midnight 14 July, 2005;
- the Office mailed the Notice of Abandonment on 13 December, 2005;
- on 22 May, 2006, Petitioner filed the instant petition, with an averment that Petitioner timely filed the reply in question and copies of the papers averred to have been timely filed—but Petitioner appears to have ignored submitting a date-stamped receipt card (see: MPEP §503¹) evidencing the filing, as well as the requirement set forth at 37 C.F.R. §1.181 regarding the timeliness of filings (i.e., within two (2) months of the action complained of).

¹ MPEP §503 provides in pertinent part:
§503 Application Number and Filing Receipt

* * *

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). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. 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.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

Moreover, pr per monitoring of the status of one's applications on Private PAIR will inform one's management of application responses and provide one an indication when mailings of Office actions should be expected.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).²

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.³

Delays in responding properly raise the question whether delays are unavoidable.⁴ Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).⁵ And the Petitioner must be diligent in attending to the matter.⁶ Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.⁷))

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 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.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.⁸

The commentary at MPEP §711.03(c) provides:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as “Express Mail.” A petition to withdraw the holding of abandonment relying upon a timely reply placed in “Express Mail” must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the “Express Mail” procedures, the paper must be entered in PALM with the “Express Mail” date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence

⁸ See: Delgar v. Schulver, 172 USPQ 513 (D.D.C. 1971).

must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

* * *

Thus, Petitioner appears not to have satisfied the showing requirements described above.

CONCLUSION

Because Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **dismissed**.

ALTERNATIVE VENUE

Petitioner's only alternative to irretrievable abandonment may be a petition alleging unintentional or unavoidable delay under 37 C.F.R. §1.137(a) or (b). Petitioner may wish to file such a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply (the amendment), the petition fee, and a statement that “the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.” (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:⁹

By mail: Commissioner for Patents¹⁰
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
 (571) 273-8300 ATTN.: Office of Petitions

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

⁹ On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf>.)

¹⁰ To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

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

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

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



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

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Paper No: __

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AUG 27 2007
OFFICE OF PETITIONS

CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

In re Application of :
Larsen : DECISION
Application No. 10/333,041 :
Filing Date: 22 August, 2003 :
Attorney Docket No.: GRP-0035 :

This is a revised decision on the petition filed on 12 October, 2006, seeking to revive the instant 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.¹

For the reasons set forth below, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

¹ **NOTE:** Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief, *inter alia*, under 37 C.F.R. §1.181.

BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 14 April, 2005, with reply due absent an extension of time on or before 14 July, 2005;

the application went abandoned after midnight 14 July, 2005;

- the Office mailed the Notice of Abandonment on 13 December, 2005;
- on 22 May, 2006, Petitioner filed the original petition, with an averment that Petitioner timely filed the reply in question and copies of the papers averred to have been timely filed—but Petitioner appears to have ignored submitting a date-stamped receipt card (see: MPEP §503¹) evidencing the filing, as well as the requirement set forth at 37 C.F.R. §1.181 regarding the timeliness of filings (i.e., within two (2) months of the action complained of)—because Petitioner failed to address the matter timely under the rule, the petition was dismissed on 5 June, 2006;

¹ MPEP §503 provides in pertinent part:
§503 Application Number and Filing Receipt

* * *

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). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. 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.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

- the instant petition seeks to overcome those deficiencies, and Petitioner has filed a petition, authorized the fee, provided a reply in the form of an amendment and made the statement of unintentional delay—however, it is noted that Petitioner has not replied timely within the two (2) months set forth in the 5 June, 2006, decision, and therefore Petitioner’s authorization of fees to be charged against Deposit Account 06-1130 will be used to address the necessary request and fee authorization for the two- (2-) month extension of time necessary to make the instant petition timely.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office are 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

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 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.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).²

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.³

Delays in responding properly raise the question whether delays are unavoidable.⁴ Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).⁵ And the Petitioner must be diligent in attending to the matter.⁶ Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.⁷))

(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 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.

Allegations as to
Unintentional Delay

The requirements of a petition alleging unintentional delay under 37 C.F.R. §1.137(b) are the petition and fee, the reply, the statement/showing of unintentional delay, and—where appropriate—a terminal disclaimer and fee.

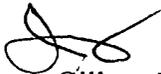
Petitioner appears to have satisfied the regulatory requirements.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center 2800 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2¹) 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).



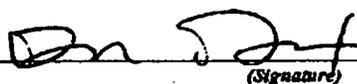
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

¹ 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.

OCT 12 2006

CERTIFICATE OF TRANSMISSION BY FACSIMILE (37 CFR 1.8)			Docket No. GRP-0035
Applicant(s): PETER NOHR LARSEN			
Application No. 10/333,041	Filing Date 22 AUG. 2003	Examiner SAN MARTIN	Group Art Unit 2837
Invention: SUCTION APPARATUS WITH NOISE REDUCTION MEANS			
<p>I hereby certify that this <u>Petition for Revival (3 pages); Reply to Office Action (12 pages)</u> <i>(Identify type of correspondence)</i> is being facsimile transmitted to the United States Patent and Trademark Office (Fax. No. <u>571-273-8300</u>) on <u>12 October 2006</u> <i>(Date)</i></p> <p style="text-align: right;"><u>Daniel Drexler</u> <i>(Typed or Printed Name of Person Signing Certificate)</i></p> <p style="text-align: center;"><u></u> <i>(Signature)</i></p>			
Note: Each paper must have its own certificate of mailing.			

P16REV02

OCT 12 2006

**Petition For Revival Of An Application For Patent Abandoned
Unintentionally Under 37 CFR 1.137(b) (Large Entity)**

Docket No.
GRP-0035

In Re Application Of: **PETER NOHR LARSEN**

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
10/333,041	22 AUG 2003	SAN MARTIN	23413	2837	2024

Invention: **SUCTION APPARATUS WITH NOISE REDUCTION MEANS**

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: _____

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.

OCT 12 2006

Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b) (Large Entity)	Docket No. GRP-0035
---	------------------------

In Re Application Of: **PETER NOHR LARSEN**

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
10/333,041	22 AUG 2003	SAN MARTIN	23413	2837	2024

Invention: **SUCTION APPARATUS WITH NOISE REDUCTION MEANS**

Calculation and Payment of Fees

Enclosed are the following fees:

- | | |
|--|-------------------|
| 6. <input checked="" type="checkbox"/> Petition fee under 37 CFR 1.17(m) in the amount of: | \$1,500.00 |
| 7. <input type="checkbox"/> Fee for reply in the amount of: | _____ |
| 8. <input type="checkbox"/> Issue fee in the amount of: | _____ |
| 9. <input type="checkbox"/> Continuing application filing fee in the amount of: | _____ |
| 10. <input type="checkbox"/> Terminal disclaimer fee in the amount of: | _____ |
| 11. <input type="checkbox"/> _____ | _____ |
| Total fees enclosed: | \$1,500.00 |

The fee of **\$1,500** 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. **06-1130**
- 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.

OCT 12 2006

Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b) (Large Entity)	Docket No. GRP-0035
---	--------------------------------

In Re Application Of: **PETER NOHR LARSEN**

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
10/333,041	22 AUG 2003	SAN MARTIN	23413	2837	2024

Invention: **SUCTION APPARATUS WITH NOISE REDUCTION MEANS**

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, 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: 12 OCTOBER 2006

**DANIEL DREXLER, REG. NO. 47535
CANTOR COLBURN LLP
CUSTOMER NO. 23413
TEL: 860-286-2929**

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

cc:

OCT 12 2006

CERTIFICATE OF TRANSMISSION BY FACSIMILE (37 CFR 1.8) Applicant(s): PETER NOHR LARSEN		Docket No. GRP-0035
--	--	-------------------------------

Application No. 10/333,041	Filing Date 22 AUG. 2003	Examiner SAN MARTIN	Group Art Unit 2837
--------------------------------------	------------------------------------	-------------------------------	-------------------------------

Invention: **SUCTION APPARATUS WITH NOISE REDUCTION MEANS**

I hereby certify that this Petition for Revival (3 pages); Reply to Office Action (12 pages)
(Identify type of correspondence)
 is being facsimile transmitted to the United States Patent and Trademark Office (Fax. No. 571-273-8300)
 on 12 October 2006
(Date)

Daniel Drexler
(Typed or Printed Name of Person Signing Certificate)


(Signature)

Note: Each paper must have its own certificate of mailing.

OCT 12 2006

**Petition For Revival Of An Application For Patent Abandoned
Unintentionally Under 37 CFR 1.137(b) (Large Entity)**

Docket No.
GRP-0035

In Re Application Of: **PETER NOHR LARSEN**

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
10/333,041	22 AUG 2003	SAN MARTIN	23413	2837	2024

Invention: **SUCTION APPARATUS WITH NOISE REDUCTION MEANS**

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: _____

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. 18333041

01 FC:1453 1500.00 DA

OCT 12 2006

Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b) (Large Entity)					Docket No. GRP-0035
In Re Application Of: PETER NOHR LARSEN					
Application No. 10/333,041	Filing Date 22 AUG 2003	Examiner SAN MARTIN	Customer No. 23413	Group Art Unit 2837	Confirmation No. 2024
Invention: SUCTION APPARATUS WITH NOISE REDUCTION MEANS					
Calculation and Payment of Fees					
Enclosed are the following fees:					
6.	<input checked="" type="checkbox"/>	Petition fee under 37 CFR 1.17(m) in the amount of:			<u>\$1,500.00</u>
7.	<input type="checkbox"/>	Fee for reply in the amount of:			_____
8.	<input type="checkbox"/>	Issue fee in the amount of:			_____
9.	<input type="checkbox"/>	Continuing application filing fee in the amount of:			_____
10.	<input type="checkbox"/>	Terminal disclaimer fee in the amount of:			_____
11.	<input type="checkbox"/>	_____			_____
Total fees enclosed:					<u>\$1,500.00</u>
The fee of \$1,500 is to be paid as follows:					
<input type="checkbox"/> A check in the amount of the fee is enclosed.					
<input checked="" type="checkbox"/> The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 06-1130					
<input type="checkbox"/> 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.					

OCT 12 2006

Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b) (Large Entity)	Docket No. GRP-0035
---	--------------------------------

In Re Application Of: **PETER NOHR LARSEN**

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
10/333,041	22 AUG 2003	SAN MARTIN	23413	2837	2024

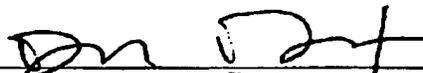
Invention: **SUCTION APPARATUS WITH NOISE REDUCTION MEANS**

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, 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: 12 OCTOBER 2006

**DANIEL DREXLER, REG. NO. 47535
CANTOR COLBURN LLP
CUSTOMER NO. 23413
TEL: 860-286-2929**

<p>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</p> <p>_____</p> <p style="text-align: center;">(Date)</p> <p style="text-align: center;">_____ <i>Signature of Person Mailing Correspondence</i></p> <p style="text-align: center;">_____ <i>Typed or Printed Name of Person Mailing Correspondence</i></p>

cc:

SCANI Please forward case and paper to address shown below.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/28/07

Paper No.: _____

TO SPE OF : ART UNIT 3711

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/333047 Patent No.: 7217198

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

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

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

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments: CHANGES TO COLUMN 2 DO NOT APPLY!
PRINTED TEXT IS ACCORDING TO SPEC (05/05/2003)

CHANGES TO COLUMNS 4 + 7 APPLY.


EUGENE KIM
SUPERVISORY PATENT EXAMINER
SPE

3711

Art Unit



29 AUG 2003

Michael D. Bednarek
Shaw Pittman LLP
1650 Tyson Boulevard
McLean, VA 22102

In re Application of	:	
CHENG et al.	:	
U.S. Application No. 10/333,052	:	
PCT No.: PCT/CN01/00311	:	DECISION ON REQUEST
Int. Filing Date: 28 February 2001	:	
Priority Date: 19 July 2000	:	
Attorney Docket No.: KSP0001-PCT	:	
For: LYOPHILIZED POWER OF LENTINAN	:	
AND THE PROCESS OF PREPARATION	:	
THEREOF	:	

This decision is in response to applicants' "Request to Correct Inventorship under 37 CFR 1.48(a)" filed 30 July 2003, which is being treated as a request under 37 CFR 1.497(d).

BACKGROUND

On 28 February 2001, applicants filed international application PCT/CN01/00311 which claimed a priority date of 19 July 2000 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 31 January 2002. The international application named Peijuan Cheng; Jing Weng; and Yigong Fang as applicants/inventors. A Demand for international preliminary examination was filed prior to 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee expired at midnight on 19 January 2003.

On 16 January 2003, applicants filed a transmittal letter for entry into the national stage accompanied by, *inter alia*: the requisite basic national fee; a translation of the international application; and an unexecuted declaration.

On 10 April 2003, the United States Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 09 June 2003, applicants filed a declaration executed by: Peijuan Cheng; Jing Weng; Yigong Fang; and Guang Cheng.

On 07 July 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration was defective because the fourth inventor (Guang Cheng) was not identified on the international application.

On 30 July 2003, applicants filed the present petition.

DISCUSSION

In the instant case, the international application named Peijuan Cheng; Jing Weng; and Yigong Fang as applicants/inventors. Applicants request to add Guang Cheng as an applicant/inventor. In order to correct an error in naming the inventor(s) made during the international stage in the national stage, a submission under 37 CFR 1.497(d) is required.

A submission under 37 CFR 1.497(d) to correct an error in naming inventorship requires:

- (1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;
- (2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.497(a);
- (3) the fee set forth in 37 CFR 1.17(i); and
- (4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

Applicants have satisfied items (1), (2) and (3). Further, in order to satisfy item (4), applicants are required to submit a written consent of assignee to the correction in inventorship in compliance with 37 CFR 3.73(b), or written confirmation that no assignee exists. Here, the international application indicates Nanjing New @High Technology Industry Developing Zone as an applicant and it is unclear if the invention has been assigned to Nanjing New @High Technology Industry Developing Zone.

CONCLUSION

For the reasons discussed above, applicants' request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

A proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). A proper response must include a written consent of assignee in compliance with 37 CFR 3.73(b).

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



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

22 JUN 2004

#8



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Michael D. Bednarek
Shaw Pittman LLP
1650 Tyson Boulevard
McLean, VA 22102

In re Application of :
CHENG et al. :
U.S. Application No. 10/333,052 :
PCT No.: PCT/CN01/00311 :
Int. Filing Date: 28 February 2001 :
Priority Date: 19 July 2000 :
Attorney Docket No.: KSP0001-PCT :
For: LYOPHILIZED POWER OF LENTINAN :
AND THE PROCESS OF PREPARATION :
THEREOF :

DECISION ON REQUEST

This decision is in response to applicants' "Request for Reconsideration of Petition under 37 CFR 1.48(a)" filed 16 June 2004, which is being treated as a petition under 37 CFR 1.181 and renewed request under 37 CFR 1.497(d).

BACKGROUND

On 28 February 2001, applicants filed international application PCT/CN01/00311 which claimed a priority date of 19 July 2000 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 31 January 2002. The international application named Peijuan Cheng; Jing Weng; and Yigong Fang as applicants/inventors. A Demand for international preliminary examination was filed prior to 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee expired at midnight on 19 January 2003.

On 16 January 2003, applicants filed a transmittal letter for entry into the national stage accompanied by, *inter alia*: the requisite basic national fee; a translation of the international application; and an unexecuted declaration.

On 10 April 2003, the United States Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 09 June 2003, applicants filed a declaration executed by: Peijuan Cheng; Jing Weng; Yigong Fang; and Guang Cheng.

On 07 July 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration was defective because the fourth inventor (Guang Cheng) was not identified on the international application.

On 30 July 2003, applicants filed "Request for Reconsideration of Petition under 37 CFR 1.48(a)." The petition under 37 CFR 1.497(d) was dismissed in a decision dated 29 August 2003.

On 16 June 2004, applicants filed the present renewed petition.

DISCUSSION

A. Petition under 37 CFR 1.181

Applicant states in their present petition that the request under 37 CFR 1.497(d) was received by the USPTO on 12 November 2003. A review of the application file reveals that the request under 37 CFR 1.497(d) filed 12 November 2003 is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

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

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by the title of invention; application number; and the docket number. The evidence submitted by applicants, consisting of a postcard receipt with a PCT/PTO mailroom date stamp of 12 November 2003 which itemizes all the papers filed on said date including Request for Reconsideration of Petition under 37 CFR 1.48(a). The postcard receipt bearing the serial number, title of invention, and attorney docket number is sufficient to indicate that the above papers were received on 12 November 2003.

B. Petition under 37 CFR 1.497(d)

In the instant case, the international application named Peijuan Cheng; Jing Weng; and Yigong Fang as applicants/inventors. Applicants request to add Guang Cheng as an applicant/inventor. In order to correct an error in naming the inventor(s) made during the international stage in the national stage, a submission under 37 CFR 1.497(d) is required.

A submission under 37 CFR 1.497(d) to correct an error in naming inventorship requires: (1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part; (2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.497(a); (3) the fee set forth in 37 CFR 1.17(i); and (4) if an assignment has been executed by any of the original

named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

Applicants have satisfied items (1), (2), (3) and (4).

CONCLUSION

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

The request under 37 CFR 1.497(d) is **GRANTED**.

A review of the application papers reveals that applicants have completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 28 February 2001 and a date of **09 June 2003** under 35 U.S.C. 371.

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



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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

E. RICO HERNANDEZ
PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O. BOX 10500
MCLEAN, VA 22102

COPY MAILED

AUG 22 2007

OFFICE OF PETITIONS

In re Patent No. 7,091,336 :
Issue Date: August 15, 2006 :
Application No. 10/333,052 :
Filed: June 9, 2003 :
Attorney Docket No. KSP0001-PCT :

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed April 5, 2007, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **granted**.

The Publishing Division is directed to issue duplicate Letter Patent.

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210. Any questions concerning issuance of the duplicate Letters Patent should be directed to either Krystal Paige at (703) 308-9250 ext. 139.

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


Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Krystal Paige, South Tower 8th Floor, C-32 Fax (571) 270-9937.



UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

MAR 13 2009

In re Application of
Jacob Weitman
Application No. 10/333,066
Filed: January 16, 2003
Attorney Docket No. 5202-0102PUS1

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OFFICE OF PETITIONS

**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 29, 2009.

The request is **NOT APPROVED**.

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

The request cannot be approved because the practitioner was not appointed by customer number. In order to withdraw by customer number practitioners must be appointed by customer number.

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

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

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: JACOB WEITMAN
FRAMNASVAGEN 7
SE-182 63 DJURSHOLM
SWEDEN



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

COPY MAILED

MAY 11 2009

OFFICE OF PETITIONS

In re Application of	:	
Jacob Weitman	:	
Application No. 10/333,066	:	DECISION ON PETITION
Filed: January 16, 2003	:	TO WITHDRAW
Attorney Docket No. 5202-0102PUS1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 3, 2009.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: JACOB WEITMAN
FRAMNASVAGEN
SE-182 63 DJURSHOLM
SWEDEN



BROWN & MICHAELS, PC
400 M & T BANK BUILDING
118 NORTH TIOGA ST
ITHACA NY 14850

COPY MAILED

OCT 02 2006

In re Patent No. 6,832,411 :
Issued: December 21, 2004 :
Application No. 10/333,098 :
Filed: January 15, 2003 :
Attorney Docket Number: KOSHIKAWA 285 :

OFFICE OF PETITIONS

ON PETITION

This is a decision on the request for certificate of correction under 37 CFR 1.323, filed January 20, 2006, to correct the assignees' names on the front of the Patent. The request is being treated as a request under 37 CFR 3.81(b)¹.

The petition is **DISMISSED**.

Petitioner argues that there are four assignees, that the name of only one assignee was included on the Issue Fee(s) Transmittal form PTO-85(b) at the time of payment of the issue fee on July 20, 2004. Accordingly, petitioner requests that a certificate of correction be issued to reflect the names of the other three assignees on the front page of the Letters Patent.

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

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

U.S. Patent and Trademark Office assignment records disclose that an assignment was submitted for recordation on January 15, 2003 and that the information provided on the

¹ See Official Gazette of June 22, 2004

Recordation Form Cover Sheet was recorded. However, it appears that additional assignment information was attached to the Recordation Form Cover Sheet. Petitioners are cautioned that only one conveyance per recordation form cover sheet is accepted, as a result, the information regarding the other three assignments was not recorded.

The patent grant was issued December 21, 2004. Subsequent to the date the patent issued, petitioners re-filed Recordation Form Cover Sheets for the remaining three assignment on December 12, 2005 and January 2, 2006. However, since there is no evidence that the assignments were submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.²

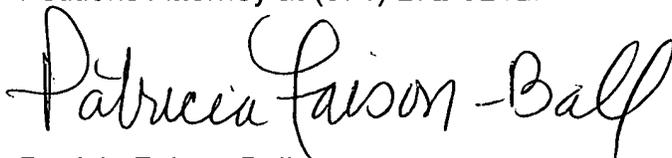
Further correspondence with respect to this matter should be addressed as follows:

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

This application file is being returned to Files Repository.

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

²See also MPEP 307.



11 JUN 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

#20

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Fitch Even Tabin & Flannery
120 South LaSalle Street, Suite 1600
Chicago, IL 60603-3406

In re Application of	:
NASAB et al.	:
Serial No.: 10/333,113	:
PCT No.: PCT/US01/15346	: DECISION ON PETITION
Int. Filing Date: 14 May 2001	:
Priority Date: 12 May 2000	: UNDER 37 CFR 1.137(b)
Attorney's Docket No.: 68101	:
For: MULTI-CHANNEL RF ENERGY DELIVERY	:
WITH COAGULUM REDUCTION	:

The petition to revive under 37 CFR 1.137(b) filed 14 January 2003 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "the entire delay in filing the required reply from the due date for the required reply, November 14, 2002, until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee for a small entity of \$720 has been paid. The required petition fee of \$650 has also been paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. Applicant also submitted a declaration executed by the inventors as well as the \$65 surcharge for filing the declaration after the thirty month period.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 date is **14 January 2003**.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (703) 306-5467



MATTINGLY STANGER MALUR & BRUNDIDGE PC
1800 DIAGONAL RD
SUITE 370
ALEXANDRIA VA 222314

COPY MAILED
OCT 01 2008
OFFICE OF PETITIONS

In re Application of :
Komatsu, et al. :
Application No. 10/333,132 : DECISION ON PETITION
Filed: May 14, 2003 :
Attorney Docket No. WPA-1103 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed September 11, 2008.

The petition is **GRANTED**.

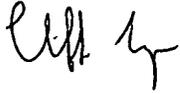
The above-identified application was held abandoned for failure to timely file a response to the non-final Office action mailed February 20, 2008. A Notice of Abandonment was mailed on August 27, 2008.

On petition, petitioner argues that he filed an Amendment on July 21, 2008. In support thereof, petitioner has included a copy of a USPTO date stamped postcard receipt, itemizing an Amendment and dated July 21, 2008 (July 20, 2008 fell on a Sunday). Lastly, a review of Office records reveals that the Office received the fee for a two month extension of time on July 21, 2008. Accordingly, it is obvious that the Notice of Abandonment was mailed in error.

In view thereof, **the holding of abandonment is withdrawn.**

The matter is being forwarded to Group Art Unit 2629 for consideration of the Amendment filed July 21, 2008 (a copy of which has been supplied with the instant petition).

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

A handwritten signature in black ink, appearing to read "Cliff Congo". The signature is written in a cursive, somewhat stylized font.

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : April 18, 2008

TO SPE OF : ART UNIT 3738

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/333140 Patent No.: 7247170 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

LAMONTIE 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: It is noted that at column 3, line 49, of corresponding U.S. patent no. 7,247,170, only the first occurrence of "a" should be replaced by --an--.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/08/07

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/333146** Patent No.: **7034027**

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

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

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



Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

Note your decision on the appropriate box.

Approved

All changes apply.

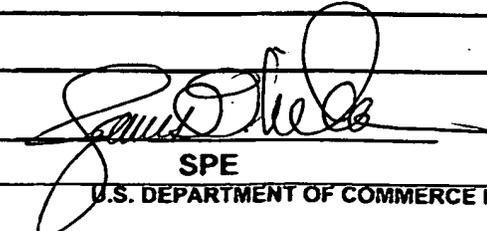
Approved in Part

Specify below which changes do not apply.

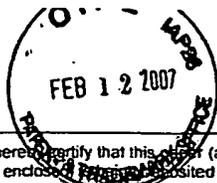
Denied

State the reasons for denial below.

Comments: _____



SPE **1624**
Art Unit



10/333146

CO/SC

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) was deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to:
 Attention: Certificate of Correction Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: February 9, 2007 Signature: James J. Napoli
 (James J. Napoli)

Docket No.: 29342/35722A
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of:
Mark W. Orme et al.

Patent No.: 7,034,027

Issued: April 25, 2006

For: FUSED HETEROCYCLIC DERIVATIVES AS
PHOSPHODIESTERASE INHIBITORS (AS
AMENDED)

Certificate
FEB 14 2007
of Correction

**REQUEST FOR CERTIFICATE OF CORRECTION
PURSUANT TO 37 CFR 1.323**

Attention: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Upon reviewing the above-identified patent, Patentee noted typographical errors which should be corrected.

Column 1, line 39, "haloC₁₋₆-alkyl," should be -haloC₁₋₆alkyl,-. ✓

Column 1, line 40, "aryl C₁₋₃-alkyl," should be -arylC₁₋₃alkyl,-. ✓

Column 1, line 67, "C₃₋₈-cycloalkyl," should be -C₃₋₈cycloalkyl,-. ✓

Column 2, lines 2-3, "C₁₋₄alkyl-eneC(=O)NR^a,R^b," should be -C₁₋₄alkyleneC(=O)NR^a,R^b,-. ✓

Column 2, line 7, "C(=O)-C₁₋₄alkyleneHet," should be -C(=O)C₁₋₄alkyleneHet,-. ✓

Column 2, lines 24-25, "C₁₋₄alkyleneC(=O)C₁₋₄alkyleneHet," should be =C₁₋₄alkyleneC(=O)C₁₋₄alkyleneHet,-. ✓

Column 2, line 27, "C(=O)-NR^aC₁₋₄alkyleneHet," should be -C(=O)-NR^aC₁₋₄alkyleneHet,-. ✓

Column 2, lines 31-32, "haloC₁₋₆alkyl," should be -haloC₁₋₆alkyl,-. ✓

Column 2, line 32, "arylC₁₋₃-alkyl," should be -arylC₁₋₃alkyl,-. ✓

Column 2, line 33, "C₃₋₈-cycloalkyl," should be -C₃₋₈cycloalkyl,-. ✓

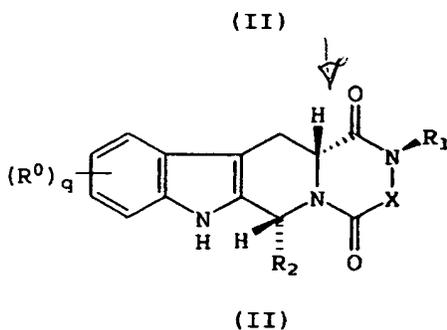
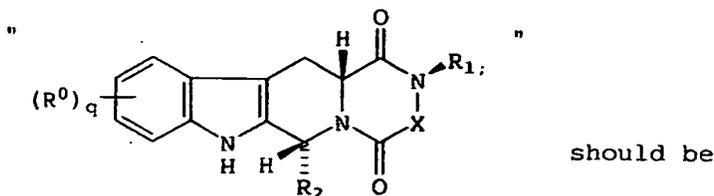
02/13/2007 FRETET12 00000017 7034027 100.00 UP
01 FC:1811

FEB 16 2007

Column 3, line 64, "C₁₋₄-alkyleneNR^aR^b," should be -C₁₋₄alkyleneNR^aR^b--. ✓

Column 4, lines 12-13, "C₁₋₄alkyleneOC₁₋₃alkylenearyl," should be --C₁₋₄alkyleneOC₁₋₃alkylenearyl--. ✓

Column 5, lines 50-57,



Column 8, line 5, delete second structure.

Column 12, line 14, "NY, N.Y." should be -NY,NY--. ✓

Column 12, line 32, "using a agent" should be --using an agent--. ✓

Column 21, line 19, "C₂₄H₂₂N₄O₅·H₂O" should be --C₂₄H₂₂N₄O₅·H₂O--. ✓

Column 21, line 24, "C₆" should be --C₆--. ✓

Column 22, line 60, "eluting" should be --eluting--. ✓

Column 23, line 4, "C₂₀H₁₆N₄O₄·0.25" should be --C₂₀H₁₆N₄O₄·0.25--. ✓

Column 24, line 7, "Carboline" should be --carboline--. ✓

Column 24, line 19, "CDC1)" should be --CDCl₃--. ✓

Column 24, line 62, "C₂₃H₂₁N₃O₄·0.4" should be --C₂₃H₂₁N₃O₄·0.4--. ✓

Column 24, line 62, "5,35;" should be --5.35--. ✓

Column 26, line 32, "136;5," should be --136.5,--. ✓

Column 26, line 34, "55.4, 55.2." should be --55.4, 55.2--. ✓

Column 26, line 43, "one-major" should be --one major--. ✓

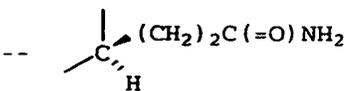
Column 27, line 39, "EXAMPLE 6" should be deleted. ✓

Column 27, line 66, "C₂₁H₂₀N₄O₃·0.75" should be --C₂₁H₂₀N₄O₃·0.75--. ✓

Column 27, line 67, "N, 9,13." should be --N, 9,13.--. ✓

Column 30, line 41, "[1',2':1,6]" should be --[1',2':1,6]--. ✓

Column 30, line 66, "C₂₃H₁₉N₃O₅·0.75" should be --C₂₃H₁₉N₃O₅·0.75--. ✓



Column 33, Example 2, please add

Column 39, line 1, "for R²," should be --¹⁾ for R²--. ✓

Column 39, line 39, "more-preferably" should be --more preferably--. ✓

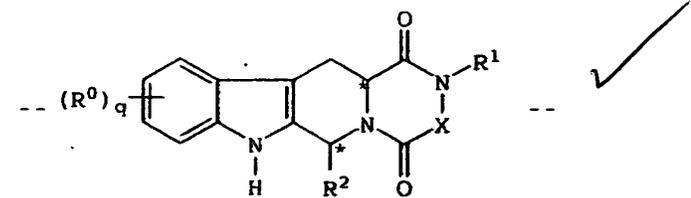
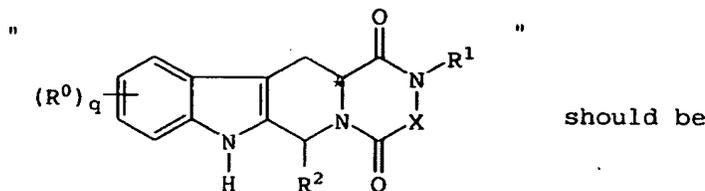
Column 39, line 61, "Marassas, Va.," should be --Manassas, Va.--. ✓

Column 39, line 64, "YEP-medium-containing" should be --YEP medium-containing--. ✓

Column 40, line 27, "for radioactivity" should be --for radioactivity--. ✓

Column 41, table 1, example 2, "2.2" should be --1.2--. ✓

Column 41, lines 58-66, ✓



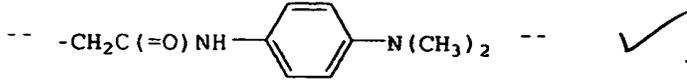
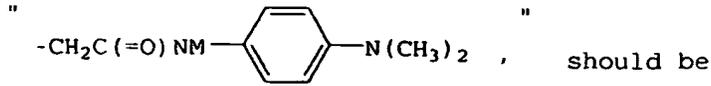
Column 42, lines 32-33, "C₁₋₄alkyleneC(=O)C₁₋₄alkyleneHet," should be --C₁₋₄alkyleneC(=O)C₁₋₄alkyleneHet--.

Column 43, lines 6-7, "C₁₋₄alkyleneC(=O)C₁₋₄alkyleneHet," should be --C₁₋₄alkyleneC(=O)C₁₋₄alkyleneHet--.

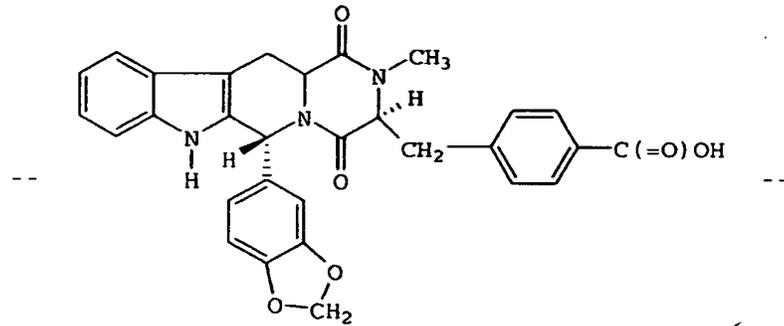
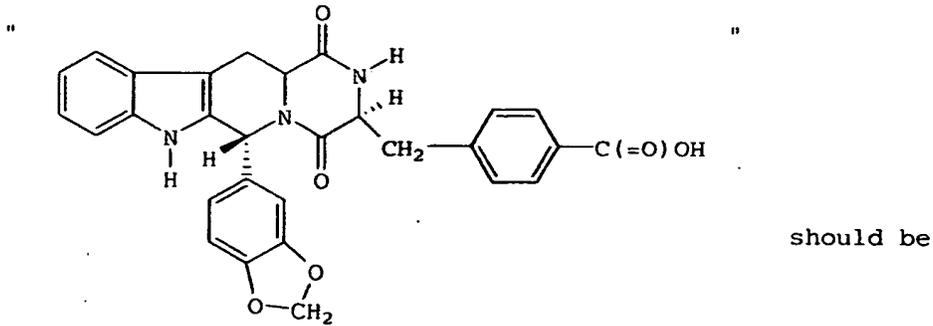
Column 43, line 10, "C¹⁻⁴alkyleneHet," should be --C₁₋₄alkyleneHet--.

Column 43, lines 10-11, "haloC₁₋₆alkyl," should be --haloC₁₋₆alkyl--.

Column 43, lines 27-31,



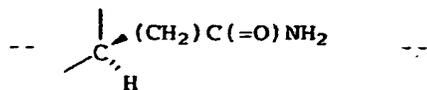
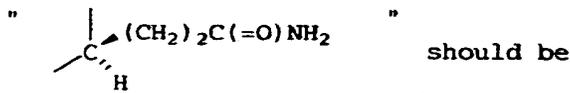
Column 46, lines 1-14,



Column 46, line 65, "(3S,6R,12aR)" should be --(3S,6R,12aR)-- ✓

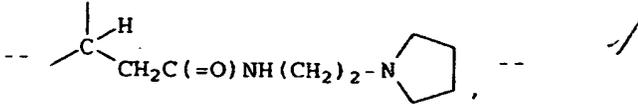
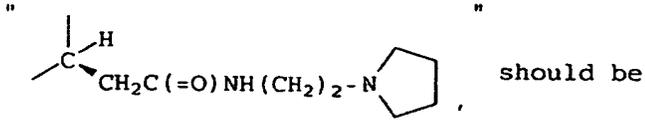
Column 46, line 66, "-ethyl]-1,2,3,6,7,12,12a-" should be --ethyl]-2,3,6,7,12,12a-- ✓

Column 47, first structure, lines 61-65,

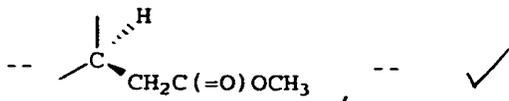
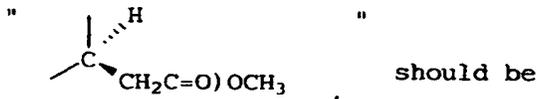


? not there

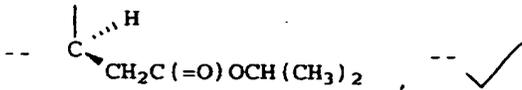
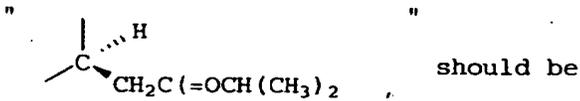
Column 48, first structure, line 45-48,



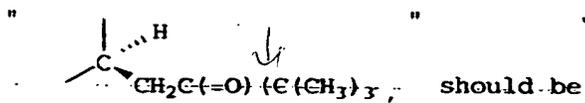
Column 48, second structure, lines 49-54,



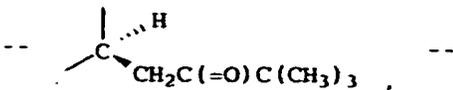
Column 48, first structure, lines 59-62,



Column 49, first structure, lines 1-6,

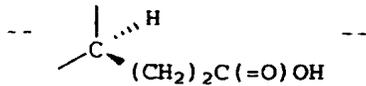
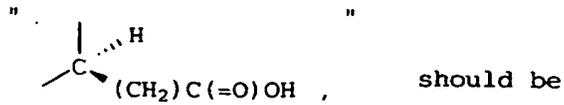


'O' missing



?

Column 49, second structure, lines 1-6,



Column 50, line 11, "acomound" should be --a compound--.

The errors were found in the application as filed by applicant. Our check in the amount of \$100.00 covering the fee set forth in 37 CFR 1.20(a) is enclosed.

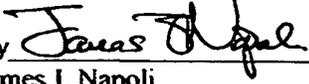
The errors now sought to be corrected are inadvertent typographical errors the correction of which does not involve new matter or require reexamination.

Transmitted herewith is a proposed Certificate of Correction effecting such amendment. Patentee respectfully solicits the granting of the requested Certificate of Correction.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 13-2855, under Order No. 29342/35722A. A duplicate copy of this paper is enclosed.

Dated: February 9, 2007

Respectfully submitted,

By 
James J. Napoli

Registration No.: 32,361
MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357
(312) 474-6300
Attorney for Applicant

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: Attention: Certificate of Correction Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: February 9, 2007

Signature:


(James J. Napoli)

Docket No.: 29342/35722A
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of:
Mark W. Orme et al.

Patent No.: 7,034,027

Issued: April 25, 2006

For: FUSED HETEROCYCLIC DERIVATIVES AS
PHOSPHODIESTERASE INHIBITORS (AS
AMENDED)

**REQUEST FOR CERTIFICATE OF CORRECTION
PURSUANT TO 37 CFR 1.323**

Attention: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Upon reviewing the above-identified patent, Patentee noted typographical errors which should be corrected.

Column 1, line 39, "haloC₁₋₆-alkyl," should be -haloC₁₋₆alkyl,-.

Column 1, line 40, "aryl C₁₋₃-alkyl," should be -arylC₁₋₃alkyl,-.

Column 1, line 67, "C₃₋₈-cycloalkyl," should be -C₃₋₈cycloalkyl,-.

Column 2, lines 2-3, "C₁₋₄alkyl-eneC(=O)NR^a,R^b," should be -C₁₋₄alkyleneC(=O)NR^a,R^b,-.

Column 2, line 7, "C(=O)-C₁₋₄alkyleneHet," should be -C(=O)C₁₋₄alkyleneHet,-.

Column 2, lines 24-25, "C₁₋₄alkyleneC(=O)C₁₋₄alkyleneHet," should be -C₁₋₄alkyleneC(=O)C₁₋₄alkyleneHet,-.

Column 2, line 27, "C(=O)-NR^aC₁₋₄alkyleneHet," should be -C(=O)-NR^aC₁₋₄alkyleneHet,-.

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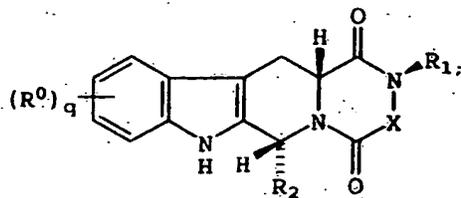
Column 2, line 33, "C₃₋₈-cycloalkyl," should be -C₃₋₈cycloalkyl,-.

FEB 16 2007

Column 3, line 64, "C₁₋₄-alkyleneNR^aR^b," should be -C₁₋₄alkyleneNR^aR^b-.

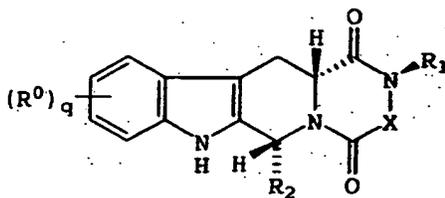
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Column 5, lines 50-57,



should be

(II)



(II)

Column 8, line 5, delete second structure.

Column 12, line 14, "NY, N.Y." should be -NY,NY-.

Column 12, line 32, "using a agent" should be -using an agent-.

Column 21, line 19, "C₂₄H₂₂N₄O₅·H₂O" should be -C₂₄H₂₂N₄O₅·H₂O-.

Column 21, line 24, "C₆" should be -C₆-.

Column 22, line 60, "eluting" should be -eluting-.

Column 23, line 4, "C₂₀H₁₆N₄O₄·0.25" should be -C₂₀H₁₆N₄O₄·0.25-.

Column 24, line 7, "Carboline" should be -carboline-.

Column 24, line 19, "CDC1)" should be -CDCl₃-.

Column 24, line 62, "C₂₃H₂₁N₃O₄·0.4" should be -C₂₃H₂₁N₃O₄·0.4-.

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Column 26, line 32, "136;5," should be -136.5,-.

Column 26, line 34, "55.4, 55.2," should be -55.4, 55.2-.

Column 26, line 43, "one-major" should be -one major-.

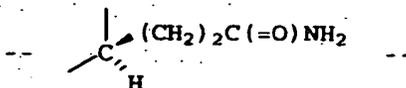
Column 27, line 39, "EXAMPLE 6" should be deleted.

Column 27, line 66, " $C_{21}H_{20}N_4O_3 \cdot 0.75$ " should be ~~$C_{21}H_{20}N_4O_3 \cdot 0.75$~~ .

Column 27, line 67, "N, 9,13." should be ~~N, 9,13.~~

Column 30, line 41, "[1',2':1,6]" should be ~~[1',2':1,6]~~.

Column 30, line 66, " $C_{23}H_{19}N_3O_5 \cdot 0.75$ " should be ~~$C_{23}H_{19}N_3O_5 \cdot 0.75$~~ .



Column 33, Example 2, please add

Column 39, line 1, "for R^2 ," should be ~~"~~ for R^2 , ~~."~~

Column 39, line 39, "more-preferably" should be ~~more preferably~~.

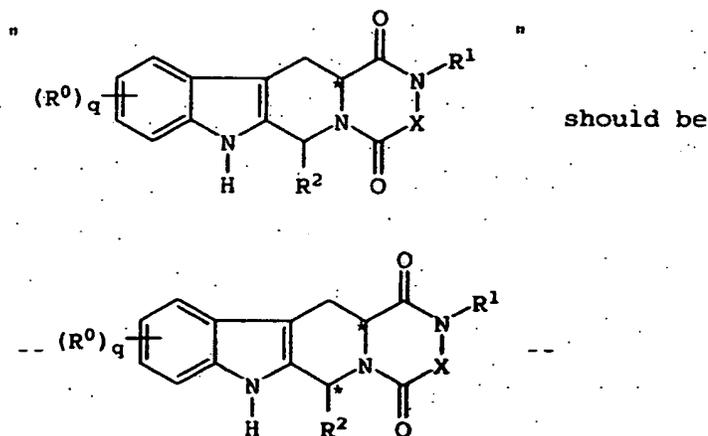
Column 39, line 61, "Marassas, Va.," should be ~~Manassas, Va.,~~

Column 39, line 64, "YEP-medium-containing" should be ~~YEP medium-containing~~.

Column 40, line 27, "for radioactivity" should be ~~for radioactivity~~.

Column 41, table 1, example 2, "2.2" should be ~~1.2~~.

Column 41, lines 58-66,



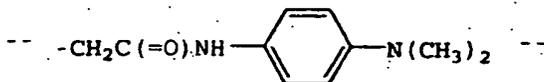
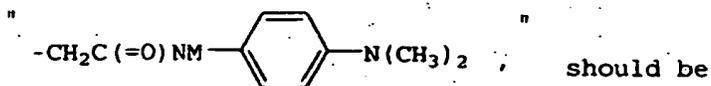
Column 42, lines 32-33, " C_{1-4} alkyleneC(=O) C_{1-4} alkyleneHet," should be ~~C_{1-4} alkyleneC(=O) C_{1-4} alkyleneHet,~~

Column 43, lines 6-7, " C_{1-4} alkyleneC(=O) C_{1-4} alkyleneHet," should be ~~C_{1-4} alkyleneC(=O) C_{1-4} alkyleneHet,~~

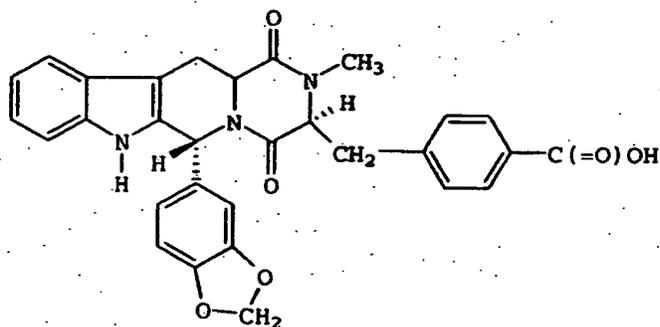
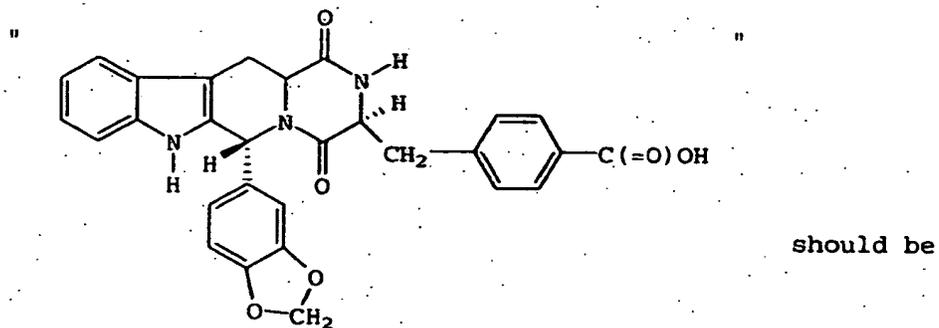
Column 43, line 10, " C^{1-4} alkyleneHet," should be ~~C_{1-4} alkyleneHet,~~

Column 43, lines 10-11, "halo C_{1-6} alkyl," should be ~~halo C_{1-6} alkyl,~~

Column 43, lines 27-31,



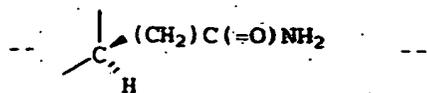
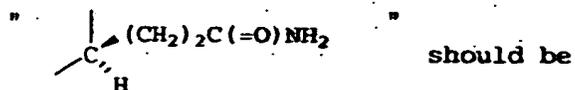
Column 46, lines 1-14,



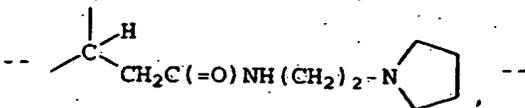
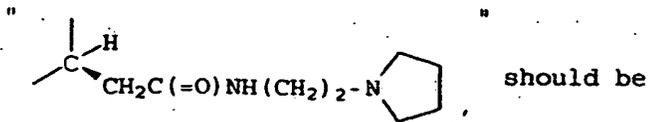
Column 46, line 65, "3S,6R,12aR" should be --(3S,6R,12aR)--.

Column 46, line 66, "-ethyl]-1,2,3,6,7,12,12a-" should be --ethyl]-2,3,6,7,12,12a--.

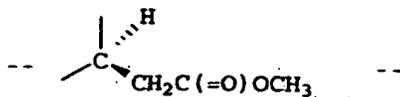
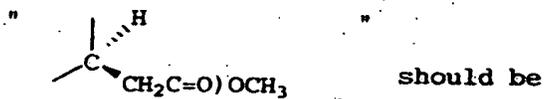
Column 47, first structure, lines 61-65,



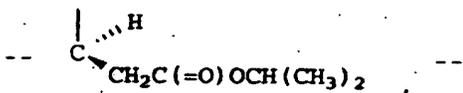
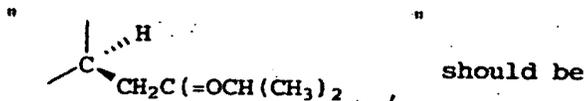
Column 48, first structure, line 45-48,



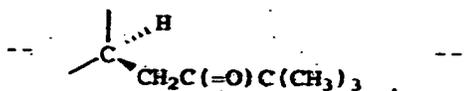
Column 48, second structure, lines 49-54,



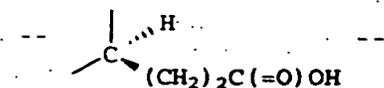
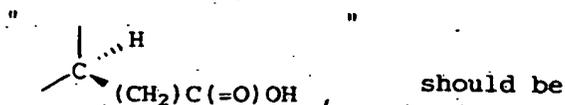
Column 48, first structure, lines 59-62,



Column 49, first structure, lines 1-6,



Column 49, second structure, lines 1-6,



Column 50, line 11, "acomound" should be --a compound--.

The errors were found in the application as filed by applicant. Our check in the amount of \$100.00 covering the fee set forth in 37 CFR 1.20(a) is enclosed.

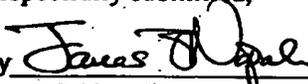
The errors now sought to be corrected are inadvertent typographical errors the correction of which does not involve new matter or require reexamination.

Transmitted herewith is a proposed Certificate of Correction effecting such amendment. Patentee respectfully solicits the granting of the requested Certificate of Correction.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 13-2855, under Order No. 29342/35722A. A duplicate copy of this paper is enclosed.

Dated: February 9, 2007

Respectfully submitted,

By 

James J. Napoli

Registration No.: 32,361

MARSHALL, GERSTEIN & BORUN LLP

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Chicago, Illinois 60606-6357

(312) 474-6300

Attorney for Applicant

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Page 1 of 11

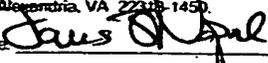
PATENT NO. : 7,034,027
APPLICATION NO. : 10/333,146
ISSUE DATE : April 25, 2006
INVENTOR(S) : Mark W. Orme et al.

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:

- Column 1, line 39, "haloC₁₋₆-alkyl," should be --haloC_{1,6}alkyl,--.
- Column 1, line 40, "aryl C₁₋₃-alkyl," should be --arylC_{1,3}alkyl,--.
- Column 1, line 67, "C₃₋₈-cycloalkyl," should be --C_{3,8}cycloalkyl,--.
- Column 2, lines 2-3, "C₁₋₄alkyl-eneC(=O)NR^a,R^b," should be --C_{1,4}alkyleneC(=O)NR^a,R^b,--.
- Column 2, line 7, "C(=O)-C_{1,4}alkyleneHet," should be --C(=O)C_{1,4}alkyleneHet,--.
- Column 2, lines 24-25, "C_{1,4}alkyleneC(=O)C_{1,4}-alkyleneHet," should be --C_{1,4}alkyleneC(=O)C_{1,4}-alkyleneHet,--.
- Column 2, line 27, "C(=O)-NR^aC_{1,4}alkyleneHet," should be --C(=O)-NR^aC_{1,4}alkyleneHet,--.
- Column 2, lines 31-32, "haloC_{1,6}alkyl," should be --haloC_{1,6}alkyl,--.
- Column 2, line 32, "arylC₁₋₃-alkyl," should be --arylC_{1,3}alkyl,--.
- Column 2, line 33, "C₃₋₈-cycloalkyl," should be --C_{3,8}cycloalkyl,--.
- Column 3, line 64, "C_{1,4}-alkyleneNR^aR^b," should be --C_{1,4}alkyleneNR^aR^b,--.

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: Attention: Certificate of Correction Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22304-1450.

Dated: February 9, 2007

Signature:  (James J. Napoli)

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

James J. Napoli
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233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357

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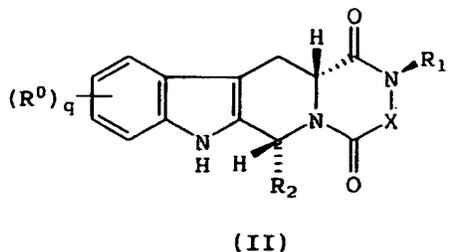
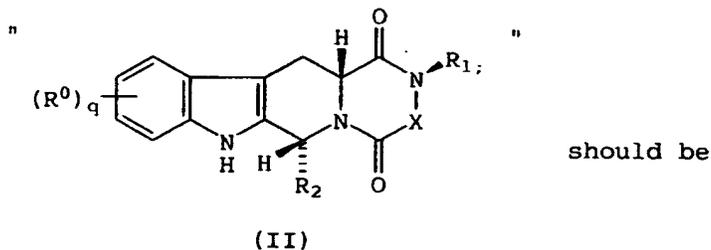
Page 2 of 11

PATENT NO. : 7,034,027
APPLICATION NO. : 10/333,146
ISSUE DATE : April 25, 2006
INVENTOR(S) : Mark W. Orme 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:

Column 4, lines 12-13, "C₁₋₄alkyleneOC₁₋₃alkylenearyl," should be -C₁₋₄alkyleneOC₁₋₃alkylenearyl,-.

Column 5, lines 50-57,



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Page 3 of 11

PATENT NO. : 7,034,027
APPLICATION NO. : 10/333,146
ISSUE DATE : April 25, 2006
INVENTOR(S) : Mark W. Orme 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:

Column 8, line 5, delete second structure.

Column 12, line 14, "NY, N.Y." should be --NY,NY--.

Column 12, line 32, "using a agent" should be --using an agent--.

Column 21, line 19, " $C_{24}H_{22}N_4O_5 \cdot H_2O$ " should be -- $C_{24}H_{22}N_4O_5 \cdot H_2O$ --.

Column 21, line 24, "C₈" should be --C6--.

Column 22, line 60, "eluting" should be --eluting--.

Column 23, line 4, " $C_{20}H_{16}N_4O_4 \cdot 0.25$ " should be -- $C_{20}H_{16}N_4O_4 \cdot 0.25$ --.

Column 24, line 7, "Carboline" should be --carboline--.

Column 24, line 19, "CDC1)" should be --CDCl₃)--.

Column 24, line 62, " $C_{23}H_{21}N_3O_4 \cdot 0.4$ " should be -- $C_{23}H_{21}N_3O_4 \cdot 0.4$ --.

Column 24, line 62, "5,35;" should be --5.35--.

Column 26, line 32, "136;5," should be --136.5,--.

Column 26, line 34, "55.4, 55.2," should be --55.4, 55.2--.

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CERTIFICATE OF CORRECTION

Page 4 of 11

PATENT NO. : 7,034,027
APPLICATION NO. : 10/333,146
ISSUE DATE : April 25, 2006
INVENTOR(S) : Mark W. Orme 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:

Column 26, line 43, "one-major" should be --one major--.

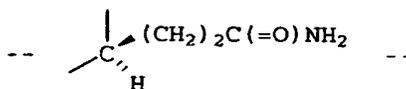
Column 27, line 39, "EXAMPLE 6" should be deleted.

Column 27, line 66, "C₂₁H₂₀N₄O₃•0.75" should be --C₂₁H₂₀N₄O₃•0.75--.

Column 27, line 67, "N, 9,13." should be --N, 9,13.--.

Column 30, line 41, "[1',2':1,;6]" should be --[1',2':1,6]--.

Column 30, line 66, "C₂₃H₁₉N₃O₅•0.75" should be --C₂₃H₁₉N₃O₅•0.75--.



Column 33, Example 2, please add

Column 39, line 1, "for R²," should be --¹⁾ for R²--.

Column 39, line 39, "more-preferably" should be --more preferably--.

Column 39, line 61, "Marassas, Va.," should be --Manassas, Va.,--.

Column 39, line 64, "YEP-medium-containing" should be --YEP medium-containing--.

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Page 5 of 11

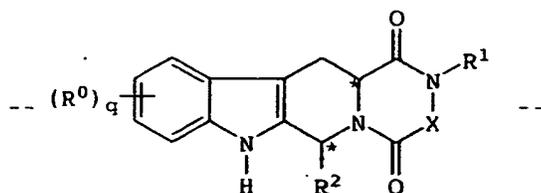
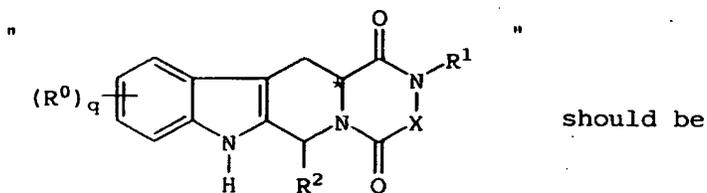
PATENT NO. : 7,034,027
APPLICATION NO. : 10/333,146
ISSUE DATE : April 25, 2006
INVENTOR(S) : Mark W. Orme et al.

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:

Column 40, line 27, "for,radioactivity" should be --for radioactivity--.

Column 41, table 1, example 2, "2.2" should be --1.2--.

Column 41, lines 58-66,



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Page 6 of 11

PATENT NO. : 7,034,027
APPLICATION NO. : 10/333,146
ISSUE DATE : April 25, 2006
INVENTOR(S) : Mark W. Orme 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:

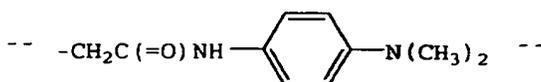
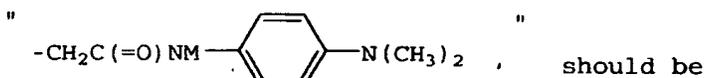
Column 42, lines 32-33, "C₁₋₄alkyleneC(=O)C_{1,4}alkyleneHet," should be -C₁₋₄alkyleneC(=O)C_{1,4}alkyleneHet;--.

Column 43, lines 6-7, "C₁₋₄alkyleneC(=O)C_{1,4}alkyleneHet," should be -C₁₋₄alkyleneC(=O)C_{1,4}alkyleneHet;--.

Column 43, line 10, "C¹⁻⁴alkyleneHet," should be -C₁₋₄alkyleneHet;--.

Column 43, lines 10-11, "haloC_{1,6}alkyl," should be --haloC_{1,6}alkyl;--.

Column 43, lines 27-31,



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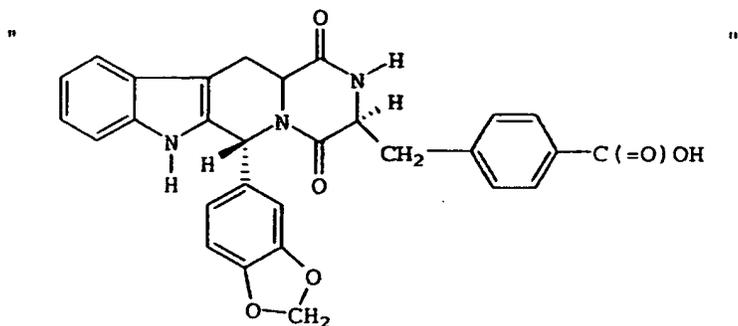
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Page 7 of 11

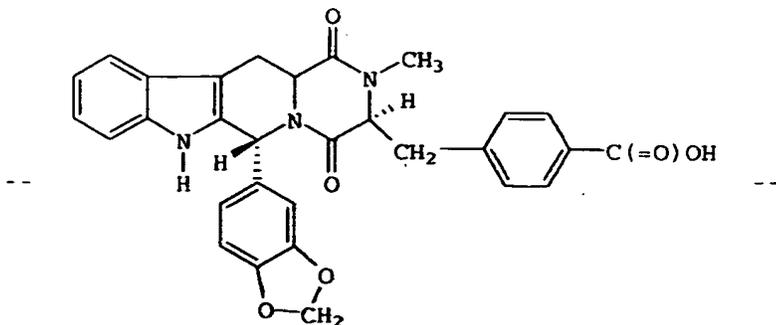
PATENT NO. : 7,034,027
APPLICATION NO. : 10/333,146
ISSUE DATE : April 25, 2006
INVENTOR(S) : Mark W. Orme et al.

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:

Column 46, lines 1-14,



should be



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Page 8 of 11

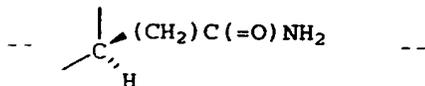
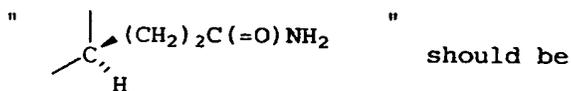
PATENT NO. : 7,034,027
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INVENTOR(S) : Mark W. Orme et al.

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Column 47, first structure, lines 61-65,



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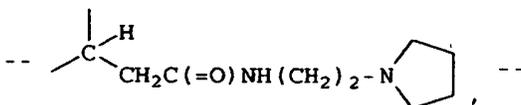
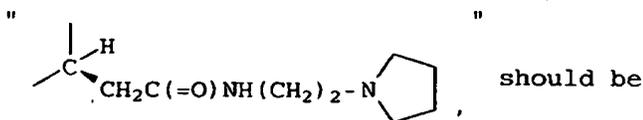
UNITED STATES PATENT AND TRADEMARK OFFICE
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Page 9 of 11

PATENT NO. : 7,034,027
APPLICATION NO. : 10/333,146
ISSUE DATE : April 25, 2006
INVENTOR(S) : Mark W. Orme 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:

Column 48, first structure, lines 45-48,



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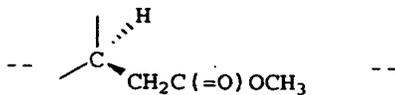
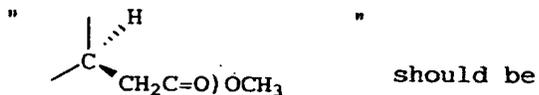
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Page 10 of 11

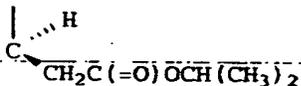
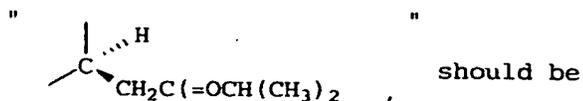
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Column 48, first structure, line 59-62,



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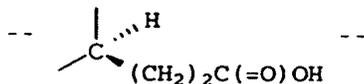
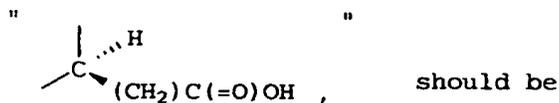
UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

Page 11 of 11

PATENT NO. : 7,034,027
APPLICATION NO. : 10/333,146
ISSUE DATE : April 25, 2006
INVENTOR(S) : Mark W. Orme 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:

Column 49, second structure, lines 1-6,



Column 50, line 11, "acomound" should be --a compound--.

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APR 08 2005

OFFICE OF PETITIONS

In re Application of :
Rudolf Glasner :
Application No. 10/333,149 :
Filed: August 18, 2003 :
Attorney Docket No. 02-852 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 21, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 15, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 16, 2004.

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

This matter is being forwarded to Technology Center AU 3681 for further processing.

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



26 APR 2005

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Orum & Roth
53 West Jackson Boulevard
Chicago, IL 60604-3606

In re Application of SCHILL	:	
U.S. Application No.: 10/333,158	:	
PCT Application No.: PCT/DE01/02648	:	DECISION
Int. Filing Date: 19 July 2001	:	
Priority Date Claimed: 03 August 2000	:	
Attorney Docket No.: 13359	:	
For: BLADE MOUNTING DEVICE	:	

This is in response to applicant's "Petition Under 37 CFR 1.183" filed 16 April 2004, which is being treated under 37 CFR 1.181.

BACKGROUND

On 19 July 2001, applicant filed international application PCT/DE01/02648, which claimed priority of an earlier Germany application filed 03 August 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 14 February 2002. The thirty-month period for paying the basic national fee in the United States expired on 03 February 2003.

On 16 January 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and an executed declaration.

On 29 September 2003, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that the declaration does not identify the citizenship of the inventor.

On 16 April 2004, applicant filed the present petition under 37 CFR 1.181.

On 18 May 2004, applicant filed an executed declaration.

On 03 June 2004, the DO/EO/US mailed a Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903).

DISCUSSION

The petition states that the Notification of Defective Response was never received.

According to the Official Gazette at 1156 OG 53 and MPEP 711.03(c), a petition to withdraw a holding of abandonment based on failure to receive an Office communication must include: (1) a statement by the practitioner that the Office communication was not received by the practitioner, (2) a statement by the practitioner that he searched the application file jacket and docket records and that the search indicates that the Office communication was not received, and (3) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

With regard to item (1) above, applicant's representative has provided the required statement.

With regard to item (2) above, applicant's representative has provided the required statement.

With regard to item (3) above, applicant's representative has supplied a docket record which lists responses due to the USPTO on 29 October 2003 for all cases handled by the representative. This docket record illustrates the absence of any listing of a response due to a Notification of Defective Response.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 19 July 2001, and a date under 35 U.S.C. 371(c) of 18 May 2004.

This application is being forwarded to the Technology Center for examination.



Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459



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Orum & Roth
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Chicago IL 60604-3606

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OCT 30 2006

OFFICE OF PETITIONS

In re Application of
Ichiro Hamada et al.
Application No. 10/333,158
Filed: January 16, 2003
Attorney Docket No. 13359

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:

**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 July 16, 2006.

The request is **APPROVED**.

A review of the file record indicates that Catherine L. Glemrich: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Catherine L. Glemrich has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The request was signed by Catherine L. Glemrich attorney/agent of record on behalf of herself.

Catherine L. Glemrich has been withdrawn as attorney/agent.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.


David Bucci
Petitions Examiner
Office of Petitions



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RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS MI 48304-0610

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OFFICE OF PETITIONS

In re Application of :
Robert Stanley WHEELER et al. :
Application No. 10/333,163 :
Filed: July 24, 2001 :
Attorney Docket No. 65856-0045 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 18, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 29, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 30, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of \$1500; and the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of September 29, 2004 is accepted as having been unintentionally delayed.

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

The application file is being referred to Technology Center AU 3681 for appropriate action on the concurrently filed amendment.

Brian Hearn
Petitions Examiner
Office of Petitions



21 AUG 2003

SYNGENTA BIOTECHNOLOGY, INC.
Patent Department
3054 Cornwallis Road
PO Box 12257
Research Triangle Park, NC 27709-2257

In re Application of: STAMP, Peter, et al.	:	
U.S. Application No.: 10/333,165	:	
PCT No.: PCT/CH01/00440	:	DECISION
International Filing Date: 16 July 2001	:	
Priority Date: 17 July 2000	:	
Attorney's Docket No.: HU-6429	:	
For: SEED COMPOSITION AND METHOD FOR	:	
REDUCING AND PREVENTING THE RELEASE OF	:	
GENETICALLY MANIPULATED POLLEN	:	

This decision is issued in response to applicants' 18 August 2003 facsimile submission seeking to confirm the submission of a change of correspondence address on 12 May 2003, prior to the mailing of the Notification Of Missing Requirements herein. No petition fee is required.

BACKGROUND

On 16 July 2001, applicants filed international application PCT/CH01/00440 which claimed a priority date of 17 July 2000 and which designated the United States. On 24 January 2002, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB").

On 08 February 2002, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of nineteen months from the priority date. As a result, the deadline for payment of the basic national fee was extended to expire thirty months from the priority date, i.e., 17 January 2003.

On 16 January 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment for the basic national fee. The submission did not include a power of attorney executed by the inventors, but it directed that correspondence be directed to the law firm of Tarolli, Sundheim, Covell & Tummino in Cleveland, Ohio (hereinafter "the Tarolli Firm").

On 12 May 2003, applicants filed a power of attorney executed by both inventors appointing counsel associated with Customer No. 022847 to represent them with respect to this application. The submission also included "Change Of Correspondence Address" forms executed by each of the inventors and requesting that all correspondence herein be directed to the address for Customer Number 22847 (the address set forth above, hereinafter "Syngenta").

On 18 June 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 indicating that an oath or declaration in compliance with 37 CFR 1.497 was required. The Notification was mailed to the Tarolli Firm, rather than to Syngenta.

On 18 August 2003, applicants filed the submission considered herein seeking confirmation of the earlier submission of the power of attorney and change of address forms. The submission include copies of these materials and a return postcard bearing a USPTO receipt stamp dated 12 May 2003.

DISCUSSION

A review of the application file confirms the presence of the power of attorney and change of correspondence address forms filed by applicant on 12 May 2003. These documents bear a USPTO receipt stamp dated 12 May 2003, confirming the asserted filing date. Accordingly, to the extent applicants' present submission seeks to confirm this earlier filing, the filing is moot.

Based on applicants' 12 May 2003 filing, the Notification of Missing Requirements mailed 18 June 2003 should have been mailed to Syngenta. Because the Notification was mailed to the Tarolli Firm, an incorrect address, the Notification is appropriately vacated.

CONCLUSION

The Notification Of Missing Requirements mailed 18 June 2003 was mailed to an incorrect address and is hereby **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accord with this decision, including: (1) updating USPTO records to reflect the proper correspondence address (associated with Customer Number 22847 and listed above); and (2) issuing a new Notification Of Missing Requirements requiring submission of a declaration in compliance with 37 CFR 1.497.



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



01 MAY 2003

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David J. Alexander
ATOFINA PETROCHEMICALS, INC.
P.O. Box 674412
Houston, TX 77267-4412

In re Application of :
MAZIERS, Eric :
U.S. Application No.: 10/333,175 :
PCT No.: PCT/EP01/03525 :
Int. Filing Date: 28 March 2001 :
Priority Date: 30 March 2000 :
Attorney Docket No.: 31223/84480 :
For: METALLOCENE PRODUCED :
ETHYLEN FOR GLOSSY PLASTIC :
CONTAINERS :

**DECISION ON
PETITION FOR REVIVAL
UNDER 37 CFR 1.137(b)**

Applicants' "Petition for Revival of an International Application for Patent Designating the US Abandoned Unintentionally Under 37 CFR 1.137(b)" filed with the national stage papers on 16 January 2003 is hereby **GRANTED** as follows:

The appropriate basic national fee and petition fee have been paid. Applicants state that "[t]he entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required in this case. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration has not yet been submitted.

Accordingly, this application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) is required.


James Thomson
Attorney Advisor
PCT Legal Office

Tel.: (703) 308-6457



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David J. Alexander
Fina Technology Inc.
P.O. Box 674412
Houston, TX 77267-4412

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OFFICE OF PETITIONS

In re Application of :
Eric Maziers :
Application No. 10/333,175 : **ON PETITION**
Filed: June 24, 2003 :
Attorney Docket No. 31223/84480 :

This is a decision on the petition under 37 CFR 1.137(b), on January 27, 2009, to revive the above-identified application.

The present petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Tenley R. Krueger appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Tenley Krueger 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.

The application became abandoned for failure to respond to the Notification of Non-Compliant Appeal Brief (37 CFR 41.37) (Notice) mailed May 8, 2008. A Notice of Abandonment was mailed on December 12, 2008.

Petitioner asserts that the Notice mailed May 8, 2008 was not received, due to Patent Office failure to properly address the envelope.

A review of the record shows that the Office action was properly addressed to the correspondence address of record and mailed on May 8, 2008, using a window envelope. Additionally, 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. Therefore, the present petition is properly treated as a petition under 37 CFR 1.137(b).

As authorized, the petition fee of \$1,620 and the appeal brief fee of \$540 have been charged to petitioner's deposit account.

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.

Since the petition satisfies the requirements of 37 CFR 1.137(b), the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 1794, 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

cc: T.R. Krueger, P.C.
38 Hope Farm Road
Missouri City, TX 77459



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OFFICE OF PETITIONS

In re Application of
Zimmermann, et al. : DECISION ON APPLICATION
Application No. 10/333,186 : FOR PATENT TERM ADJUSTMENT
Filed: January 16, 2003 :
Attorney Docket No. 4-31507A :

This decision is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705", filed July 19, 2005, notifying the Office of an error in Applicant's favor in the initial determination of patent term adjustment under 35 U.S.C. § 154(b).

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance was **zero (0)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On April 19, 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 twenty-one (21) days.

The Office initially determined a patent term adjustment of twenty-one (21) days based on an adjustment for PTO delay of twenty-one (21) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by zero days of applicant delay. Applicants state that they should have been assessed additional delay because they purchased an extension of time to respond to an Office action.

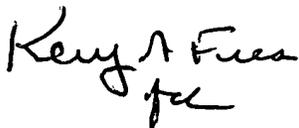
A non-final Office action was mailed on August 6, 2004. Applicants did not file a reply until February 7, 2005, made timely with the purchase of a three month extension of time and because February 6, 2005 fell on a Sunday.¹ Accordingly, pursuant to 37 C.F.R. § 1.704(b), applicant delay of ninety-three (93) days should have been assessed.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **zero (0) days** (21 days of PTO delay, reduced by 93 days of applicant delay).

No petition fee was required. The Office thanks Applicants for their good faith and candor in bringing this matter to the attention of the Office.

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

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



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

Enclosure: Copy of adjusted PAIR calculation

¹ See 37 C.F.R. § 1.7(a).



23 APR 2003

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#3

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George M. Medwick
E.I. Du Pont De Nemours and Company
Legal Patent Records Center
4417 Lancaster Pike
Wilmington, DE 19805

In re Application of	:	
LANCASTER	:	DECISION ON
Application No.: 10/333,187	:	
PCT No.: PCT/US01/21251	:	PETITION UNDER
Int. Filing Date: 05 July 2001	:	
Priority Date: 10 July 2000	:	37 CFR 1.137(b)
Attorney Docket No.: RD-7915	:	
For: POLYMER FILAMENTS HAVING PROFILED	:	
CROSS-SECTION	:	

The petition to revive under 37 CFR 1.137(b) filed 16 January 2003 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that applicant has provided payment of the full, U.S. basic national fee and submitted an executed declaration and power of attorney, thus the requirements of 37 CFR 1.137(b) have been satisfied. As such, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

As authorized the \$130.00 surcharge for providing an executed oath or declaration of the inventor later than thirty months from the priority date will be charged to Deposit Account No.: 04-1928.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **16 January 2003**.

03/28/2003 MKAYPAGH 00000001 04:928 10333187

01 FD:1617 130.00 CH
Derek A. Putonen

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



Lisa A. Bongiovi
CANTOR COLBURN
55 Griffin Road South
Bloomfield, CT 06002

In re Application of: YONEDA, Kiyoshi, et al. :
U.S. Application No.: 10/333,194 :
PCT No.: PCT/JP02/04750 : DECISION
International Filing Date: 16 May 2002 :
Priority Date: 18 May 2001 :
Attorney's Docket No.: YKI-0118 :
For: THIN FILM TRANSISTOR AND ACTIVE :
MATRIX DISPLAY DEVICE AND METHOD :
OF MANUFACTURING SAME :

This decision is issued in response to applicants' "Petition Under 37 CFR 1.182" filed on 06 October 2003. The submission included payment of the \$130 petition fee.

10/23/2003 HKAYPAGH 00000162 061130 10333194
01 FC:1460 130.00 DA

BACKGROUND

On 16 May 2002, applicants filed international application PCT/JP02/04750 which claimed a priority date of 18 May 2001 and which designated the United States. On 28 November 2002, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB"). The deadline for payment of the basic national fee was thirty months from the priority date, i.e., 16 November 2003.

On 16 January 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, an English translation of the international application, an executed declaration, and payment of the basic national fee.

On 05 August 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 was required. The Notification stated that the filed declaration was unacceptable because the inventor identified in the international application as Kouji Suzuki was identified as Koji Suzuki in the declaration.

On 06 October 2003, applicants filed the petition considered herein. The petition states that the first name of inventor Koji Suzuki as set forth in the international application (Kouji) represented a typographical error; petitioners assert that the correct spelling for this inventor's name is Koji Suzuki, as set forth in the filed declaration.

DISCUSSION

The petition under 37 CFR 1.182 filed on 06 October 2003 included an acceptable explanation demonstrating that the discrepancy between the name of this inventor in the declaration (Koji Suzuki) and such inventor's name as set forth in the published international application (Kouji Suzuki) resulted from a spelling error in the international application. Section 605.04(b) of the Manual of Patent Examining Procedure states that, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition is not required, nor is a new oath or declaration under 37 CFR 1.63 needed. Accordingly, the petition under 37 CFR 1.182 was not required, and the \$130 petition fee will be refunded to applicant's Deposit Account.

Pursuant to applicant's explanation, the name of the first inventor is accepted as Koji Suzuki without the need of a petition. The declaration filed by applicants on 16 January 2003 is therefore no longer defective.

CONCLUSION

Pursuant to applicant's explanation regarding the spelling error, the name for the inventor in question is accepted as Koji Suzuki. The petition under 37 CFR 1.182 is therefore unnecessary. Deposit Account No. 06-1130 will be credited with a refund of the \$130 petition fee.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accord with this decision. The 35 U.S.C. 371 date is 16 January 2003.



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

communication consists of: (1) a statement from the practitioner declaring that the Office communication was not received by the practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and, (3) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioners' statement.

In the petition, counsel states that "[a] review of our file jacket and docket records indicates that the Office communication pertaining to the notification of MISSING REQUIREMENTS with a mailing date of 05/21/2003 was not received." Pet. at ¶ 1. This statement satisfies items (1) and (2) above.

The petitioner also submitted copies of docket records from 21 May 2003 through 01 September 2003 and a "handwritten record of all patent correspondence which was received . . . between May 19, 2003 and July 2, 2003t" *Id.* at ¶ 2. A review of the docket evidence and mail log verify that there is no record that the Form PCT/DO/EO/905 mailed 21 May 2003 was received by petitioner. This evidence is sufficient to satisfy item (3).

Thus, petitioner has met all of the requirements required to establish nonreceipt of an Office action.

CONCLUSION

For the reasons noted above, applicant's petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 08 October 2004 is hereby **VACATED**.

The declaration provided with the subject petition is in compliance with 37 CFR 1.497(a) and (b). The surcharge fee has been charged as authorized.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 16 July 2001 under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 14 October 2005.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.


James Thomson

10/333,195

Page 3

Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 273-3302



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Mailed: 6-30-06

In re application of

Yasuhisa Hasegawa et al.

Serial No. 10/333,215

Filed: February 3, 2003

For: Zeolite Membranes For Selective Oxidation Of Carbon
Monoxide In Mixed Hydrogen Gas Source

:
:
DECISION ON
PETITION

This is a decision on the petition filed on December 19, 2005. The petition requests to reset the period of reply of an office action.

Applicants never received an Office Action dated September 29, 2005. On March 28, 2006 the Office Action was re-mailed and the period for response re-started.

DECISION

The instant petition is accepted as a petition under 37 CFR 1.181(no fee).

The petition is **DISMISSED**.

Jacqueline M. Stone

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

Andrew M. Chow
Oliff & Berridge, PLC
P.O. Box 19928
Alexandria, Virginia 22320



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Blank Rome LLP
The Watergate Building
600 New Hampshire Avenue, NW
Washington, DC 20037

In re Application of : DECISION ON PETITION
Arjan D. van Lenthe et al :
Serial No. : 10/333,240 :
Filed : June 30, 2003 :
For : Methods and Devices for the Production of a Pipe :
From Biaxially Oriented Thermoplastic Material :
Having an Integrated Socket :

This is a decision on a request filed November 30, 2004, by which it is requested that: (1) a Change of Correspondence Address filed June 13, 2003 be entered; (2) the Office action mailed July 7, 2004 be remailed; and (3) the shortened statutory period for reply be reset. Requester alleges that he did not receive the Office letter mailed July 7, 2004. The request is being treated as a petition 37 CFR 1.181, and no fee is required.

Petitioner asserts that he did not receive the Office action mailed July 7, 2004 as it was mailed to an incorrect address as the Office had failed to act on a Change of Correspondence Address received June 13, 2004. Petitioner submits a copy of the Change of Correspondence Address that was filed June 13, 2004 as well as a copy of PTO stamped receipt indicating receipt of the same. Further, a review of the file uncovered that the Office action of July 7, 2004 was returned undelivered.

In view of the above, the request to remail the Office action to the correct address with a new shortened statutory period for response is GRANTED. The correspondence address has been changed as well. Upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner for the remailing of the Office action of July 7, 2004; the remailing of this Office action will establish a new shortened statutory period for response.

Summary: Office action of July 7, 2004, to be remailed setting forth a new shortened statutory period for response.

Richard A. Bertsch, Director
Technology Center 3700
Phone: (571) 272-3750

ak/01/06/04

JUN - 9 2005

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DICKENSTEIN SHAPIRO MORIN & OSHINSKY LLP
1177 Avenue of the Americas
41st Floor
New York, NY 10036-2714

In re Application of
Catoni et al

Decision on Petition

Serial No. : 10/333,243
Filed : December 24, 2003
Attorney Dkt No. : G5005.0010

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on October 22, 2004, to request that the restriction requirement (lack of unity) be reviewed and reversed. The delay in acting on this petition is regretted.

BACKGROUND

A review of the file history shows that the application was filed on December 24, 2003 as a National Stage Application under 35 USC 371 of PCT/EP01/08379 and contained 21 claims.

A lack of unity determination was mailed on May 4, 2004, requiring the restriction of the 21 claims to three groups under 35 U.S.C. 121 and 372. The claims were restricted as follows:

Group I claims 1-11 and 14-17 drawn to nucleic acids encoding a plant or animal transporter, host cells containing said nucleic acid and methods of making and using said nucleic acid

Group II, claim 12 drawn to proteins

Group III, claim 13 drawn to an antibody

The inventions listed as Groups I-III were said not to relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: PCT Rule 13.2 requires that unity of invention exists only when the shared same or corresponding technical feature is a contribution over the prior art. The inventions listed as Groups I-III do not relate to a single general inventive concept because they lack the same or corresponding special technical feature. The products of Group I-III do not have a common property or activity, a common structure, or a common significant structural element.

It was noted that claims 18-21 are "use" claims and were not included in this requirement since they were drawn to non-statutory subject matter. Their intended subject matter could not be determined.

In response to the lack of unity determination, on June 4, 2004 applicants cancelled claims 18-21, added two new method claims, 22 and 23, and elected Group I, claims 1-11 and 14-17, with traverse.

On August 26, 2004, the traversal was found non-persuasive and the lack of unity determination was made FINAL. In the first action on the merits, claims 1-11 and 14-16 were rejected under 35 USC 1st paragraph, claims 1 and 15 were rejected under 35 USC 112 second paragraph, claims 1-4, 8 and 9 were rejected under 35 USC 101, claims 1, 2, 5, 7-10 were rejected under 35 USC 102(b), and claims 1-11 and 14-17 were rejected under 35 USC 103(a).

Newly added claim 22, drawn to a method of isolating a nucleic acid sequence comprising the use of a probe which contains a "part "of a nucleic acid according to claim 1 and claim 23, drawn to a method of identifying an inhibitor, comprising the use of a nucleic acid according to claim 1, were restricted into two additional Groups:

Group IV claims 22, drawn to a method of isolating nucleic acid sequences and, Group V, claim 23 drawn to a method of identifying an inhibitor.

On 10/22/2004, applicants have filed the instant petition to request that the restriction requirement be reviewed and reversed.

Applicants additionally responded to the first action on the merits on 11/22/2004 by amending claims 1-11, 14-17, adding new claims 23 and 24 and traversing the rejections as they applied to the newly amended claims.

DISCUSSION

Applicants' petition under 37 C.F.R. 1.144, to request that the restriction requirement be reviewed and reversed. The application, prosecution history and petition have been considered carefully.

Applicants correctly note that because this is the National Stage Filing of a PCT case under 35 USC 371, unity of invention practice is applicable. Applicants submit that the requirements for PCT Rule 13.2 have been met in the instant case and the determination by the Examiner to the contrary is not correct. Applicants submit that Claim 1 (Group I) of this application is directed to certain defined nucleic acids, and that the single claim in Group II (claim 12) calls for a protein obtainable from the nucleic acid according to claim 1. Similarly the sole claims of groups III-IV are drawn to an antibody directed against the protein of Group II, and two different methods of use of the nucleic acid of Group I, respectively.

Applicants' complete traversal of the lack of unity determination is acknowledged, however, found non-persuasive on the following basis:

PCT Rule 13.2, states:

Where a group of inventions is claimed in one and the same international application, the requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

The inventions listed as Groups I-V do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following two reasons:

First, the groups lack a required technical feature. Group 1 (claims 1-11 and 14-17) is not required to contain certain defined nucleic acids, but rather encompasses any isolated nucleic acid molecule encoding any plant or animal arginine/ornithine-transporter selected from the group consisting of a nucleic acid molecule obtained by substitution, addition, inversion and/or deletion of one or more bases of a nucleic acid molecule of any one of a) to d) of Claim 1. Thus Group I encompasses any nucleic acid encoding any arginine/ornithine-transporter. Moreover, Claims 3 and 4 are directed to fragments of the nucleic acid sequence, as short as 10 nucleotides in length, which would not encode a protein that functions as an arginine/ornithine transporter. Groups II-V appear to require the arginine/ornithine-transporter or the nucleic acid which encodes it, a feature not required by all the claims in Group I.

Second, the technical feature which links the groups does not make a contribution over the prior art. As evidenced by the prior art rejections in the first action of the merits, EMBL AC AC0011717 and EMBL AC AL161746 each teach an isolated DNA encoding the MCF transporter proteins of SEQ ID NO: 2 and 4 (encoded by SEQ ID NO: 1 and 3), respectively which read upon Group I. While the above references do not specifically teach that the encoded MCF transporter proteins are arginine/ornithine transporter proteins, these are considered inherent properties of the encoded transporters by virtue of their 100% identity to SEQ ID NOs: 2 and 4, respectively. Thus, the shared technical feature of the groups does not make a contribution over the prior art. Because the groups are not linked by a "special technical feature", unity of invention between the groups does not exist.

Further, 37 CFR 1.475 states "... If multiple products, processes of manufacture or uses are claimed, the first invention of the category first mentioned in the claims of the application and the first recited invention of each of the other categories related thereto will be considered as the main invention in the claims, see PCT Article 17(3)(a) and § 1.476(c). " Thus as applicants elected group contains methods of making and using the claimed nucleic acid product, any additional methods of making and using are properly

different groups. PCT Unity of Invention does not required concurrent examination of plural methods unless a product makes a contribution over the prior art.

Applicants' reference to Example 17, in the Administrative Instructions Under The PCT, Part 2, Examples Concerning Unity of Invention, in which a protein X and a DNA sequence coding protein X were indicated to have unity, is acknowledged. Applicants' attention is also directed to Example 39 in the ISPE Guidelines which is more comprehensive. In both examples, the DNA invention, taken as a whole, is defined in terms of the encoding protein. In contrast, Claims 3 and 4 of the instant application are directed to fragments of the nucleic acid sequence, as short as 10 nucleotides in length, which would not encode a protein that functions as an arginine/ornithine transporter.

As stated above, the "technical feature" linking the protein and nucleic acid inventions does not make a contribution over the prior art in view of EMBL AC AC0011717 and EMBL AC AL161746.

Finally, applicants correctly point out that determination of lack of unity should continue to be re-evaluated throughout prosecution is acknowledged. Should the claims be amended or persuasive argument filed such that the nucleic acid invention makes a contribution over the prior art, claims directed to a method which requires the allowable nucleic acid will be considered for rejoinder.

Where applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims that depend from or otherwise include all the limitations of the allowable product claim will be rejoined in accordance with the provisions of M.P.E.P. 821.04. **Process claims that depend from or otherwise include all the limitations of the patentable product** will be entered as a matter of right if the amendment is presented prior to final rejection or allowance, whichever is earlier. Amendments submitted after final rejection are governed by 37 C.F.R. 1.116; amendments submitted after allowance are governed by 37 C.F.R. 1.312.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 C.F.R. 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103, and 112. Until an elected product claim is found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowed product claim will not be rejoined. See "Guidance on Treatment of Product and Process Claims in light of *In re Ochiai*, *In re Brouwer* and 35 U.S.C. § 103(b)," 1184 O.G. 86 (March 26, 1996).

DECISION

For these reasons, the petition under 37 C.F.R. 1.144 to request to withdraw the lack of unity determination is **DENIED**.

The lack of unity determination between Groups I-V is maintained.

The application will be forwarded to the examiner to consider response and amendment.

Any request for consideration must be filed within two (2) months of the mailing date of this decision.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-872-9306.



Jasemine Chambers
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/11/05

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction on Patent No.: 6,753,665-

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

Please complete this form and return with file, within 7 days to:

Certificates of Correction Branch - PK 3-915

Palm location 7580 - Tel. No. 305-8309

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

Thank You For Your Assistance

Certificates of Correction Branch

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments:

Correcting "Refs Cited" section on face of Patent.

gwr

6/12/06

DS
SPE
U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

2834
Art Unit



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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON, DC 20005-3096

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JUL 25 2008

In re Application of :
Tsutomu Ohzuku, et al. :
Application No. 10/333,269 : **DECISION GRANTING PETITION**
Filed: January 17, 2003 : **UNDER 37 CFR 1.313(c)(2)**
Attorney Docket No. 43888-231 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 21, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 23, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Bernard P. Codd 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. Codd desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted.

The person signing the petition requests a change of correspondence address to the address given in the petition. There is, however, 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

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.*

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 regarding this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 1795 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.



April M. Wise
Petitions Examiner
Office of Petitions



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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS MI 49501

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JUN 04 2007

OFFICE OF PETITIONS

In re Application of :
Bruce A. Haataja :
Application No. 10/333,280 :
Filed: January 16, 2003 :
Attorney Docket No. STR14 P-304 :

NOTICE

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3213.

Cheryl Gibson-Baylor
Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Conferee:

[Signature]



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

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MAY 10 2007

In re Application of
LE COUEDIC, Regis et al.
Application No. 10/333,284
Filed: January 15, 2003
Attorney Docket No. **11123.59USWO**

OFFICE OF PETITIONS

**DECISION ON PETITION
TO WITHDRAW
FROM RECORD**

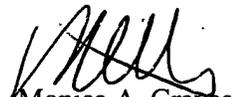
This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 2007.

The request is **APPROVED**.

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

The request was signed by Sarah M. Monfeldt. Sarah M. Monfeldt has been withdrawn, all other attorneys remain of record. The correspondence address of record remains unchanged.

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


Monica A. Graves
Petitions Examiner
Office of Petitions



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FRISHAUF HOLTZ GOODMAN & CHICK PC
220 FIFTH AVE
FLOOR 16
NEW YORK NY 10001-7708

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OCT 18 2005
OFFICE OF PETITIONS

In re	:
Harada, et al.	:
Application No. 10/333,316	: DECISION REGARDING
Filed: January 16, 2003	: PATENT TERM ADJUSTMENT
Patent No. 6,900,335	: AND
Issued: May 31, 2005	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This decision is in response to the "LETTER RE: DETERMINATION OF PATENT TERM ADJUSTMENT", filed June 20, 2005, requesting correction of the patent term adjustment (PTA) indicated on the patent.

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 **zero (0) days**.

On May 31, 2005, the above-identified application matured into U.S. Patent No. 6,900,335. The patent issued with a Patent Term Adjustment of twelve (12) days.

However, as pointed out in the application for patent term adjustment, there was an error in the determination of the PTA.

A review of the file reveals that the Notice of Allowance was mailed on November 29, 2004, not on March 11, 2005. PTO delay was assessed as sixty-three (63) days. However, as the Notice of Allowance was timely mailed within four months pursuant to 37 C.F.R. § 1.703(a)(2), no PTO delay should have been assessed.

In view thereof, the correct determination of patent term adjustment is **zero (0) days** (0 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. Patentees are reminded that any request for reconsideration of the patent term adjustment that would result in an increase in patent term to applicants must be filed pursuant to 37 C.F.R. 1.705, with the appropriate fee.

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 **zero (0) 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
for

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

Enclosure: draft Certificate of Correction



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Joseph S Tripoli
Thomson Multimedia Licensing Inc
Patent Operations CN 5312
Princeton NJ 08543-0028

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MAR 05 2007

OFFICE OF PETITIONS

In re Application of :
Hirtzlin, et al. :
Application No. 10/333,320 :
Filed: January 17, 2003 :
Attorney Docket No. PF000076 :
For: RF SIGNAL AMPLIFIER UNIT, RF :
SIGNAL TRANSMISSION DEVICE AND :
RF SIGNAL TRANSMITTING TERMINAL- :
ANTENNA :

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed January 25, 2007, to withdraw the holding of abandonment.

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

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

This application was held abandoned for failure to timely submit the issue fee and publication fee within three months of the mailing of the September 11, 2006 Notice of Allowance and Fee(s) Due. Applicants submitted a completed Part B-Fee(s) Transmittal on November 27, 2006 that contained authorization for the Office to charge deposit account no. 07-0832 the issue fee, the publication fee, advance copies of the future patent, and all other required fees. The Office contended that this application became abandoned on December 12, 2006 because deposit account no. 07-0832 did not contain sufficient funds to charge the required fees on November 27, 2006, when a member of the Office attempted to charge the fees. A Notice of Abandonment was mailed on January 8, 2007.

Petitioners request withdrawal of the holding of abandonment. However, there were insufficient funds in the deposit account to cover the required charges on the date that the Office attempted to collect the fees due for this application. As stated in the September 11, 2006 Notice of Allowance and Fee(s) Due, "... THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS

NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151....”

The application did become abandoned three months after September 11, 2006, on October 30, 2005, for failure to pay the required fees.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **dismissed**.

The undersigned strongly suggests filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an “unintentionally” abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was “unavoidable.” This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b).

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioners 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
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

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

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


Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions



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Joseph S Tripoli
Thomson Multimedia Licensing Inc
Patent Operations CN 5312
Princeton NJ 08543-0028

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MAY 10 2007

OFFICE OF PETITIONS

In re Application of	:	
Hirtzlin, et al.	:	
Application No. 10/333,320	:	ON PETITION
Filed: January 17, 2003	:	
Attorney Docket No. PF000076	:	
For: RF SIGNAL AMPLIFIER UNIT, RF SIGNAL TRANSMISSION DEVICE AND RF SIGNAL TRANSMITTING TERMINAL- ANTENNA	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 3, 2007, to revive the above-identified application.

This application was held abandoned for failure to timely submit the issue fee and publication fee within three months of the mailing of the September 11, 2006 Notice of Allowance and Fee(s) Due. Applicants submitted a completed Part B-Fee(s) Transmittal on November 27, 2006 that contained authorization for the Office to charge deposit account no. 07-0832 the issue fee, the publication fee, advance copies of the future patent, and all other required fees. The Office contended that this application became abandoned on December 12, 2006 because deposit account no. 07-0832 did not contain sufficient funds to charge the required fees on November 27, 2006, when a member of the Office attempted to charge the fees. A Notice of Abandonment was mailed on January 8, 2007.

Applicants have submitted a proper reply in the form of the issue fee, the publication fee and a completed PTOL-85, an acceptable statement of the unintentional nature of the delay in responding to the September 11, 2006 Notice of Allowance and Fee(s) Due, and the petition fee.

The petition is **granted**.

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

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

Shirene Willis Brantley
Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions



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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

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OCT 15 2007

OFFICE OF PETITIONS

In re Application of
Guenter Beyer, et al.
Application No. 10/333,321
Filed: January 17, 2003
Attorney Docket No. 449122045400

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:
:
:
:
:

**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 17, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on August 1, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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


April M. Wise
Petitions Examiner
Office of Petitions

cc: KEVN SPIVAK
BELL, BOYD & LLOYD, LLC
70 WEST MADISON STREET
SUITE 3100
CHICAGO, IL 60602



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MAY 11 2007

OFFICE OF PETITIONS

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

In re Application of :
Javier Costa Perez, et al. :
Application No. 10/333,331 : ON PETITION
Filed: November 6, 2003 :
Attorney Docket No. U 014365-4 :

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

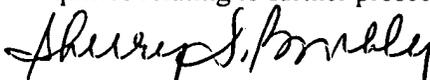
The petition is GRANTED.

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 June 27, 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). On January 9, 2007 the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$790, and the submission required by 37 CFR 1.114; (2) the petition fee of \$1,500; and (3) an adequate statement of unintentional delay¹.

This application is being referred to Technology Center AU 1651 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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


Sherry D. Brinkley
Petitions Examiner
Office of Petitions

¹ 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. It is noted that the signature of the person making the statement of unintentional delay is missing on the petition; however, the petition includes a signature by a registered patent attorney. Therefore, the signature included elsewhere on the petition will be construed as the necessary ratification of the unsigned statement required by 37 CFR 1.137(b)(3). Petitioner must promptly notify the Office if this is not a correct interpretation of the statement under 37 CFR 1.137(b)(3).

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

By fax: (571) 273-0025
ATTN: Office of Petitions

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

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1542 or (703) 756-1814

31 JAN 2005



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Charles A. Wendel
Parkhurst & Wendel, L.L.P.
1421 Prince Street, Suite 210
Alexandria, VA 22314-0220

In re Application of
Senda et al.
Serial No.: 10/333,362
PCT No.: PCT/JP02/04917
Int. Filing Date: 21 May 2002
Priority Date: 21 May 2001
Attorney's Docket No.: 6885
For: THERMAL FUSE

DECISION

This decision is responsive to the "PETITION UNDER 37 CFR 1.181" filed 06 December 2004.

BACKGROUND

On 21 May 2002, applicants filed international application PCT/JP02/04917, which claimed priority of earlier Japanese applications, the earliest of which was filed 21 May 2001. On 21 January 2003, applicants filed an application for national stage entry in the United States. This application was assigned U.S. serial number 10/333,362.

On 03 March 2004, a "Notice of Allowability" was mailed to applicant indicating that none of the copies of the priority documents had been received by the United States Patent and Trademark Office (USPTO) from the International Bureau.

On 05 March 2004, applicants filed a letter requesting that the USPTO send a written acknowledgement of the receipt of the copies of the priority documents. Applicants included a copy of the "NOTIFICATION CONCERNING SUBMISSION OR TRANSMITTAL OF PRIORITY DOCUMENT" (form PCT/IB/304) which indicated that the International Bureau had received copies of the priority document.

On 26 August 2004, USPTO mailed applicant an interview summary indicating that "the copy of the postcard and the copy of PCT/IB/304 are not sufficient to meet the conditions of 35 USC 119(a-d), since copies of the certified copies of the priority documents are not on file. The Examiner has advised the Applicant's representative that in order to meet the conditions of 35 USC 119(a-d), the aforementioned copies of the certified copies of the priority documents must be submitted from the International Bureau."

DISCUSSION

According to PCT Rule 17.1, applicant is required to submit copies of the priority documents to the International Bureau. Once applicant met that responsibility, applicant cannot be required to furnish these copies again. (See PCT Rule 17.2) The copies have been retrieved from the International Bureau. Applicant has no further obligation with respect to these documents.

CONCLUSION

The petition to secure copies of the priority documents is **GRANTED**.

This application is being forwarded back to the Technology Center for processing in accordance with this decision.



Debra Brittingham
Office of PCT Legal Administration
DSB/RC:dsb



Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

Tel: (571) 272-3280
Fax: (571) 273-0459



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P.O. Box 1450
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AMSTER ROTHSTEIN & EBENSTEIN
90 PARK AVENUE
NEW YORK, NY 10016

COPY MAILED

AUG 10 2004

OFFICE OF PETITIONS

In re Application of :
Wilhelmus Marinus Carpaij :
Application No. 10/333,365 : NOTICE
Filed: August 5, 2003 :
Attorney Docket No. 65959/33 :

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

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

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

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

Inquiries related to this communication should be directed to the undersigned Staff at (703) 305-8680.

This matter is being referred to Technology Center AU 2621 for examination in due course.

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



05 FEB 2004

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#8

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Bryan Zerhusen, Ph.D.
McCarter & English, LLP
City Place 1
185 Asylum Street
Hartford, CT 06103

In re Application of	:	
VETILLARD, et al.	:	
PCT No.: PCT/FR01/02358	:	DECISION ON PETITION
Application No.: 10/333,377	:	
Int. Filing Date: 19 July 2001	:	UNDER 37 CFR 1.47(a)
Priority Date: 19 July 2000	:	
Atty. Docket No.: IXAS-144	:	
For: CELL CULTURE CHAMBER AND	:	
BIOREACTOR FOR EXTRACORPOREAL	:	
CULTURE OF ANIMALS CELLS	:	

This decision is in response to applicant's "Petition For non-Signing Inventor Pursuant to 35 U.S.C. § 116, and 37 CFR § 1.47(a)" filed 19 December 2003 in the United States Patent and Trademark Office (USPTO).

05 FEB 2004 10:07:33 AM
10/333377

BACKGROUND

On 19 July 2001, applicant filed international application PCT/FR01/02358, which claimed priority of an earlier application filed 19 July 2000. A copy of the International Application was forwarded to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 24 January 2002. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 19 January 2003.

On 19 January 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application and a First Preliminary Amendment. An executed oath or declaration was not included.

On 23 October 2003, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date. Applicant was given two months to respond and advised that this time period could be extended

with a proper petition and payment of fees

On 19 December 2003, applicant responded with the present petition to accept the combined declaration and power of attorney without the signature of joint inventor Richard Caterini accompanied by a declaration executed by the remaining joint inventors on their own behalf and on the behalf of the non-signing joint inventor.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(i), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. With the filing of the present petition and accompanying papers, applicant has satisfied all four items and it is appropriate to grant the petition under 37 CFR 1.47(a).

Regarding item (1), applicant has authorized deduction of the appropriate petition fee from Deposit Account No.: 50-1402.

As to item (2), applicant has provided a signed affidavit detailing efforts to obtain the signature of Mr. Caterini; including sending him a complete set of application papers. In addition, applicant has provided a signed declaration from Mr. Caterini expressly stating his refusal to execute the declaration.

Regarding item (3), applicant has supplied a statement of the last known address of Mr. Caterini.

As to item (4), applicant has a combined declaration and power of attorney executed by the remaining joint inventors on their own behalf and on the behalf of the non-signing joint inventor. Accordingly, applicant has satisfied all four items detailed above and it is proper to grant applicant's petition at this time.

CONCLUSION

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

The application has an international filing date of 19 July 2001 under 35 U.S.C. 363, and will be given a date of **19 December 2003** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record. A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette. This application is

Application No.: 10/333,377

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



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

05 FEB 2004



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ALEXANDRIA, VA 22313-1450
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Mr. Richard Caterini
"Le May," 73 Route de Treve de Gain
69530 Orlenas
FRANCE

In re Application of
VETILLARD, et al.
PCT No.: PCT/FR01/02358
Application No.: 10/333,377
Int. Filing Date: 19 July 2001
Priority Date: 19 July 2000
Atty. Docket No.: IXAS-144
For: CELL CULTURE CHAMBER AND BIOREACTOR
FOR EXTRACORPOREAL CULTURE OF
ANIMALS CELLS

Dear Mr. Caterini: You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor. As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternately, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of the appropriate oath or declaration by you pursuant to 37 CFR 1.63.

A handwritten signature in black ink, appearing to read "Derek A. Putonen".

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

Bryan Zerhusen, Ph.D.
McCarter & English, LLP
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United States of America



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HARRISON & EGBERT
412 MAIN STREET
7TH FLOOR
HOUSTON, TX 77002

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OFFICE OF PETITIONS

In re Application of :
Alex Babij, Jr. :
Application No. 10/333,386 :
Filed: January 17, 2003 : ON PETITION
Title of Invention: :
IMPROVEMENTS TO SCREW GUIDES :
AND CARTRIDGES :

This is a decision on the Petition for Withdrawal of a Holding of Abandonment Under 37 C.F.R. § 1.8(b), filed March 5, 2005. The petition is properly treated under 37 CFR 1.181.

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed September 22, 2004. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on March 23, 2005. A Notice of Abandonment was mailed April 7, 2005.

Applicant's Assertion

Applicant responds with the instant petition wherein Applicant avers that a timely reply was filed on March 22, 2005, and was received by this Office as evidenced by Applicant's return-receipt postcard. In support of this assertion, Applicant provides a copy of an Amendment A, which includes a Certificate of Mailing under 37 CFR 1.8, executed by the practitioner, and a copy of a return-receipt postcard acknowledging receipt of, *inter alia*, an AMENDMENT A and a Credit Card Payment Form, in the above-identified application by this Office on march 25, 2005.

A review of the return-receipt postcard reveals that Applicant is correct. The postcard acknowledges receipt of an AMENDMENT A and a

Credit Card Payment Form, in the above-identified application by this Office on march 25, 2005.

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

A review of the copy of the AMENDMENT A also reveals that applicant included with the correspondence a Certificate of Mailing under 37 CFR 1.8.

Finally, a review of the application file reveals that it contains a copy of the Amendment A and the extension of time request filed on March 25, 2005 (Certificate of Mailing dated March 22, 2005).

Accordingly, the petition is granted.

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

No fee has been charged and none is due.

The application file is being referred to Technology Center Art Unit 3723 for continued processing in due course.

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



Derek L. Woods

Attorney

Office of Petitions

12 MAY 2005



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Jonathan P. Osha
Osha & May, LLP
1221 McKinney Street, Suite 2800
Houston, TX 77010

In re Application of
HEGI, et al.
PCT No.: PCT/JP01/06124
Application No.: 10/333,387
Int. Filing Date: 16 July 2001
Priority Date: 18 July 2000
Atty. Docket No.: 15115/062001
For: LIGHT DIFFUSING FILMS

DECISION ON PETITION
UNDER 37 CFR 1.181

This is a decision on applicant's "Request For Corrected Filing Receipt" filed on 08 November 2004 in the United States Patent and Trademark Office (USPTO). The request is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 16 July 2001, applicant filed international application PCT/JP01/06124 which claimed priority to an earlier application filed 18 July 2000. Applicant filed a transmittal letter for entry into the U.S. National stage on 17 January 2003.

On 13 September 2004, applicant was mailed a "Notification of Acceptance" (Form PCT/DO/EO/903) indicating a 371 date of 30 June 2004.

On 08 November 2004, applicant filed the present petition for a corrected filing receipt and Form PCT/DO/EO/903.

DISCUSSION

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicant has provided a copy of the date-stamped postcard receipt. The postcard identifies the application by title, applicant and serial number. Among the items listed on the receipt are: "Combined Declaration and Power of Attorney (signed/unsigned)" The "signed" portion of the postcard is circled to indicate that the filed declaration was executed. The postcard is stamped "DT14 Rec'd PCT/PTO 30 JUN 2003." In addition, a review of the fee records for the present application shows \$170.00 in payments for 30 June 2003. The evidence is sufficient to establish that the executed declaration was received in the USPTO on 06 June 2003. As such, it is proper to **GRANT** applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The application will be given an international filing date of 16 July 2001 under 35 U.S.C. 363 and a date of **30 June 2003** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) mailed 13 September 2004 indicating a date of 30 June 2004 under 35 U.S.C. 371(c) is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) and a corrected filing receipt indicating the correct 371 date as detailed above.



Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459



2 JUN 2003

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#4

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Thomas Hoxie
Novartis Pharmaceuticals Corporation
Patent and Trademark Dept.
564 Morris Avenue
Summit, NJ 07901-1027

In re Application of BERNEY et al	:	
U.S. Application No.: 10/333,388	:	
PCT Application No.: PCT/EP01/05162	:	
Int. Filing Date: 07 May 2001	:	DECISION
Priority Date Claimed: 08 May 2000	:	
Attorney Docket No.: 4-31419A	:	
For: HYDANTOIN ERIVATIVES WITH	:	
AFFINITY FOR SOMATOSTATIN	:	
RECEPTORS	:	

This is in response to applicant's "Petition Under 37 C.F.R. §1.10(e)" filed 17 January 2003.

BACKGROUND

On 07 May 2001, applicant filed international application PCT/EP01/05162, which claimed priority of an earlier United Kingdom application filed 08 May 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 15 November 2001. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 08 November 2002.

On 09 October 2002, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 17 January 2003, applicant filed the present petition under 37 CFR 1.10(e).

DISCUSSION

A review of the application file reveals that the papers originally filed on 09 October 2002 are present.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.10(e) is DISMISSED AS MOOT.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a properly executed oath or declaration in compliance with 37 CFR 1.497 must be filed.



Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614

Facsimile: 703-308-6459



Novartis
Corporate Intellectual Property
One Health Plaza, Building 104
East Hanover, NJ 07936-1080

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OFFICE OF PETITIONS

In re Application of :
Morano et al. :
Application No. 10/333,388 : DECISION GRANTING PETITION
Patent No. 7019004 :
Filed: Filed October 10, 2002 :
(commencement date) :
Attorney Docket PN/4-31419A :

This decision is in response to Applicants' "Petition for patent term adjustment pursuant to 37 CFR 1.705(d)" timely¹ filed on May 01, 2005 requesting that the Patent Term Adjustment be adjusted from a determination of 26 days to a determination of seventy-seven (77) days.

Applicants' petition is **GRANTED**. The Office will *sua sponte* issue a certificate of correction reflecting an adjustment of 77 days rather than the 26-day amount printed on the front of the patent. The Office will also adjust the PTA calculation reflected in PAIR to reflect this decision.

Applicants argue that the Office erred in failing to provide an adjustment for over 3 years to issue from the commencement date under 37 CFR 1.702(a)(1). Applicants assert that the proper amount of PTA related to the 3-year provision is one hundred and sixty-nine (169) days.² Applicants acknowledge the overlapping provision of 37 CFR 1.703(f) and accordingly, assert that the applicants assert that the overall amount of Office delay is 169 days.³ In addition, the applicants acknowledge an applicant delay by a period of 92 days under 37 CFR 1.704(b). Accordingly, applicants assert the proper amount of PTA at the time of the issuance of the patent is 77-days.

Applicants arguments are persuasive for the reasons asserted by applicants. Applicants delayed by 92 days and the Office delayed by 169 days. Accordingly, the correct amount of PTA at the time of the issuance of the patent is 77 days.

¹Patent issued on March 28, 2006.

²The commencement date pursuant to 37 CFR 1.702(b) was

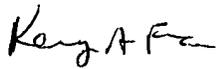
³Since the 169-days of Office delay under 37 CFR 1.702(b) overlaps with the 118 days of the 37 CFR 1.702(a)(1), the correct amount of USPTO delay is 169-days.

Application No. 10/689,009

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

The Office acknowledges the receipt of \$200.00 for the application for patent term adjustment (petition). No additional fees are required by the Office.

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



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

cc: Adjusted Pair Calculation
Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,019,004 B2

DATED : Mar. 28, 2006

INVENTOR(S) : Berney 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 (26) days

Delete the phrase "by 26 days" and insert – by 77 days--

Day : Thursday

Date: 9/7/2006

Time: 10:09:07


PALM INTRANET
PTA Calculations for Application: 10/333388

Application Filing Date:	08/14/2003	PTO Delay (PTO):	118
Issue Date of Patent:	03/28/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	92
Post-Issue Petitions:	0	Total PTA (days):	77
PTO Delay Adjustment:	51		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
57	09/07/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	51		
53	03/28/2006	PATENT ISSUE DATE USED IN PTA CALCULATION			
52	02/07/2006	EXPORT TO FINAL DATA CAPTURE			
51	02/06/2006	DISPATCH TO FDC			
50	02/05/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
49	01/17/2006	ISSUE FEE PAYMENT VERIFIED			
48	01/16/2006	FINISHED INITIAL DATA CAPTURE			
47	01/17/2006	ISSUE FEE PAYMENT RECEIVED			
46	10/24/2005	EXPORT TO INITIAL DATA CAPTURE			
45	10/17/2005	MAIL NOTICE OF ALLOWANCE			
44	10/03/2005	ISSUE REVISION COMPLETED			
43	10/03/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
42	10/03/2005	CASE DOCKETED TO EXAMINER IN GAU			
41	10/03/2005	NOTICE OF ALLOWABILITY			
40	08/18/2005	DATE FORWARDED TO EXAMINER			
39	08/09/2005	RESPONSE AFTER NON-FINAL ACTION		92	36
38	08/09/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
37	02/10/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
36	02/09/2005	MAIL NON-FINAL REJECTION	118		-1
35	02/07/2005	NON-FINAL REJECTION			
34	05/18/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
33	05/18/2004	DATE FORWARDED TO EXAMINER			

32	08/14/2003	FEE PAYMENT RECORDED (FEES FILED SEPARATELY E.G. NOT WITH ORIGINAL PAPERS, ETC).			
31	05/18/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
30	08/14/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	08/14/2003	PRELIMINARY AMENDMENT			
28	05/18/2004	CASE DOCKETED TO EXAMINER IN GAU			
27	10/31/2003	CLEARED BY OIPE CSR			
26	08/14/2003	371 COMPLETION DATE			
25	10/10/2003	APPLICATION RETURN FROM OIPE			
24	10/14/2003	NOTICE OF DO/EO ACCEPTANCE MAILED			
23	10/10/2003	APPLICATION RETURN TO OIPE			
21	10/10/2003	APPLICATION RETURN FROM OIPE			
20	10/10/2003	APPLICATION RETURN TO OIPE			
18	10/07/2003	APPLICATION DISPATCHED FROM OIPE			
17	10/07/2003	NOTICE OF DO/EO ACCEPTANCE MAILED			
16	08/14/2003	ADDITIONAL APPLICATION FILING FEES			
15	08/14/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

Search Another: Application#

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
Alexandria, VA. 22313-1450
WWW.USPTO.GOV

WARNER-LAMBERT COMPANY
Suzanne M. Harvey
Patent Department
2800 Plymouth Road
Ann Arbor, Michigan 48105

Date: April 12, 2005 :
Application No. 10/333,399 :
Filed: June 19, 2003 :
Subject: **Oxygenated esters of 4-iodo phenylamino** :
Benzhydroxamic acids :

ON PETITION
37 CFR 1.48(b)

Receipt is acknowledged of the petition filed January 09, 2004 under 37 CFR 1.48(b) for correction of inventorship. The petition has been **GRANTED**.

In view of the papers filed, it has been found that during the prosecution of the instant application a restriction was required and therefore, not all of the inventors contributed to the invention as now claimed. Accordingly, this application has been changed by the **deletion of Michael Huai Gu Chen**. The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

JOSEPH K. MCKANE
United States Patent and Trademark Office
Technology Center 1600
SPE, ART UNIT 1626



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Young & Thompson
745 South 23rd Street 2nd Floor
Arlington, VA 22202

SEP 08 2004

**DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600**

In re application of : **DECISION ON PETITION**
Gilbert Jost : **TO MAKE SPECIAL**
Application No. 10/333,404 : **(INFRINGEMENT)**
Filed: May 6, 2003 :
For: **METHOD FOR ASSEMBLING A CASE**
ON A CUSHION, PROTECTION COVER FITTED
WITH CASE AND CUSHION FITTED WITH
SUCH COVER

This is a decision on the petition under 37 C.F.R § 1.102(d) filed May 17, 2004 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed May 17, 2004 meets all of the requirements above and, therefore, the petition is **GRANTED**.

With regards to element 2(C) above, an Information Disclosure Statement was filed on April 21, 2003.

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

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



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

KJD/vdb: 8/17/04

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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.



Stacy Powell, Sr.
For Cecelia B. Newman, Supervisor
Decisions & Certificates of
Correction Branch
(703) 308 - 9390 ext. 120 or (703) 305 - 8228

Kilyk & Bowersox, P.L.L.C.
(Luke A. Kilyk)
400 Holiday Court, Suite 102
Warrenton, Virginia 20186

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KILYK & BOWERSOX, P.L.L.C.
400 HOLIDAY COURT
SUITE 102
WARRENTON VA 20186

COPY MAILED

MAR 26 2007

In re Patent No. 7,074,695 :
Issued: 11 July, 2006 :
Application No. 10/333,417 :
Filed: 17 March, 2003 :
Atty Docket No. 3190-029 :

OFFICE OF PETITIONS

ON PETITION

This is a decision in reference to the petition filed on 10 October, 2006, which is 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 inquiries 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.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

¹See Official Gazette of 22 June, 2004.



26 SEP 2003

Goodwin Procter, LLP
7 Becker Farm Road
Roseland, NJ 07068

In re Application of :
Azambre et al. :
US Application No.: 10/333,426 :
PCT Application No.: PCT/FR01/02381 :
International Filing Date: 20 July 2001 :
Priority Date: 20 July 2000 :
Attorney's Docket No.: 103722-374-NP :
For: METHOD FOR SAVING COMPUTER :
DATA :

DECISION ON PETITION
UNDER 37 CFR 1.47(b)

This decision concerns the "Petition for Filing on Behalf of Nonsigning Inventors" filed on 10 September 2003, which is **DISMISSED** as follows.

BACKGROUND

On 20 July 2001, international application PCT/FR01/02381 was filed, claiming priority of an earlier application filed on 20 July 2000. A copy of the international application, in French, was communicated from the International Bureau to the USPTO on 31 January 2002. A demand for international preliminary examination, in which the United States was elected, was filed on 19 February 2002, prior to 20 February 2002, the end of the 19-month period from the 20 July 2000 priority date. The period for paying the basic national fee is thus 30 months and ended at midnight on 20 January 2003.

On 17 January 2003, a transmittal letter for entry into the national stage in the United States (Form PTO-1390) was filed along with, *inter alia*, the \$450 basic national fee (small entity) required by 35 U.S.C. 371(c)(1) and 37 CFR 1.492(a)(5), and an English translation of the international application, but not an oath or declaration.

On 29 April 2003, a "Notification of Missing Requirements under 37 CFR 371 in the United States Designated/Elected Office (DO/EO/US)" was mailed, requesting submission of an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), within the later of 2 months from the mailing date of the notification, or, 32 months from the priority date. The instant petition then followed.

DISCUSSION

The petition, asserting that 2 of the 3 named inventors cannot be found and that the remaining inventor refused to sign the declaration, requests that Neartek, Inc. ("Nearthek"), the inventors' former employer, be allowed to file the application on behalf of, and as agent for, the inventors.

Under 37 CFR 1.47(b), a person or an entity may make the application oath or declaration on behalf of, and as agent for, an inventor who cannot be found/reached after diligent effort, or who refused to sign the application oath or declaration, provided that: (MPEP 409.03(b) (Rev. 1, Feb. 2003))

- (1) The person or entity making the oath or declaration, i.e. the "37 CFR 1.47(b) applicant," has a demonstrated proprietary interest in the invention claimed in the patent application. (also MPEP 409.03(f) (Rev. 1, Feb. 2003))

[If the 37 CFR 1.47(b) applicant is an assignee (either a single assignee-of-the-entire interest, or multiple assignees together owning an undivided 100% interest in the application), the oath/declaration must be accompanied by:

- (A) A copy of the assignment in English, to show a chain of title from the inventor(s) to the 37 CFR 1.47(b) applicant;
- (B) A statement pursuant to 37 CFR 3.73(b), to establish the 37 CFR 1.47(b) applicant's ownership in the claimed invention and thus right to prosecute this application before the USPTO.

(MPEP 324, 409.03(f) (Rev. 1, Feb. 2003))]

- (2) The oath or declaration, as required by 37 CFR 1.497, is signed by the 37 CFR 1.47(b) applicant.

[Where the 37 CFR 1.47(b) applicant is a corporation, the oath/declaration must be signed by an officer of the corporation or one specifically authorized by the corporation to sign the oath or declaration on its behalf, indicating this person's title or position.]

- (3) The petition includes a statement of facts by those with firsthand knowledge of the facts recited therein, establishing that the sole inventor or all of the named inventors cannot be located/reached after diligent effort; or, refused to sign the oath/declaration despite the *bona fide* attempt made to present to the non-signing inventor(s) a copy of the entire application (specification including claims; drawings, if any). (MPEP 409.03(d) (Rev. 1, Feb. 2003))
- (4) The petition includes a statement that a filing date for the application is necessary to preserve the rights of the parties or to prevent irreparable damage. (MPEP 409.03(g) (Rev. 1, Feb. 2003))
- (5) The petition indicates the last known address of each of the non-signing inventors. (MPEP 409.03(e) (Rev. 1, Feb. 2003)) and
- (6) The petition includes the petition fee set forth in 37 CFR 1.17(h), currently \$130.

As to item (1), the petition is accompanied by a "Declaration of François Hellot in Support of Petition for Filing on Behalf of Nonsigning Inventors," basically a declaration by a French attorney familiar with the French law, stating that Neartek owns the entire interest in the claimed invention under the French law. Item(1) is thus satisfied.

The petition also meets the requirements in items (4)-(6).

However, item (2) is not met, in that, the 8-page declaration submitted with the petition, while signed by an officer of Neartek, lacks the citizenship of each of the inventors. 37 CFR 1.497(a)(3).

With respect to item (3), the petition merely asserts, but has not supplied any corroborating evidence, that a copy of the entire application was sent to each of the inventors. Furthermore, the petition states that for the 2 inventors who had been mailed the documents but did not respond, "[a]ll other efforts to contact [them] . . . have been unsuccessful"; but the petition does not elaborate what these efforts entail, e.g., name search via the Internet. Moreover, the petition alleges that the remaining inventor refused to sign the application declaration, but does not delineate, through a statement of facts signed by one with firsthand knowledge of the facts recited therein, the circumstances under which this inventor was presented with the application papers, and refused to sign. The requirement of item (3) is thus not met.

CONCLUSION

In view of the above, the petition is **DISMISSED without prejudice.**

A renewed §1.47(b) petition must be filed **WITHIN TWO MONTHS** of the mailing date of this decision, and be accompanied by the items discussed above, if not previously submitted. The 2-month period is extendable under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to:

Mail Stop PCT
Commissioner for Patents
Office of PCT Legal Administration
PO Box 1450
Alexandria, VA 22313-1450



Richard Cole
PCT Legal Examiner
PCT Legal Office



RC Tang
Petitions Attorney
PCT Legal Office
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27 JUL 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

#4

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Patrice A. King
Goodwin Procter
7 Becker Farm Road
Roseland NJ 07068

In re Application of	:	
Jean-Marc Delbose	:	
Application No.: 10/333,426	:	
PCT Application No.: PCT/FR01/02381	:	DECISION ON
International Filing Date: 20 July 2001	:	
Priority Date: 20 July 2000	:	RENEWED PETITION
Attorney Docket No.: 103722-374-NP	:	UNDER
For: METHOD FOR SAVING	:	37 CFR 1.47(b)
COMPUTER DATA	:	

This is in response to applicants renewed petition for filing on behalf of nonsigning inventor(s) filed on 26 April 2004.

BACKGROUND

On 20 July 2001, applicant filed international application number PCT/FR01/02831 which claimed priority to an earlier filed French application 00/09541 filed on 20 July 2000. A copy of the international application was communicated from the International Bureau to the United States Patent and Trademark Office on 31 January 2001. A demand for international preliminary examination, in which the United States was elected, was filed on 19 February 2002, prior to 20 February 2002, the end of the 19-month period from 20 July 2000 priority date. The period for paying the basic national fee is thus 30 months and ended at midnight on 20 January 2003.

On 17 January 2003, a transmittal letter for entry into the national stage in the United States (Form PTO-1390) was filed along with, inter alia, the \$450 basic national fee (small entity) required by 35 USC 371 (c)(1) and 37 CFR 1.492(a)(5), and an English Translation of the international application, but not an oath or declaration.

On 29 April 2003, A "Notification of Missing Requirements under 37 CFR 371 in the United States Designated/Elected Office (DO/EO/US)" was mailed, requesting submission of an oath or declaration, in compliance with 37 CFR 1.497 (a) and (b), within the later of 2 months from the mailing date of the notification, or, 32 months from the priority date.

On 10 September 2003, applicants submitted a response to the Notification of Missing Requirements along with a petition under 37 CFR 1.47 (b) to accept filing on behalf of non-signing inventors. Filed with the petition were, inter alia: a response to the notice of missing requirements; a petition for extension of 3 months along with the petition fee \$465 (small entity); and (3) a

declaration unsigned by the nonsigning inventors, identifying the application number and international filing date.

On 26 September 2003, the United States Patent and Trademark Office mailed a decision dismissing the petition for filing on behalf of the nonsigning inventor(s). The instant renewed petition then followed.

DISCUSSION

The petition filed on 10 September 2003 was dismissed because the petition merely asserts, but has not supplied any corroborating evidence, that a copy of the entire application was sent to each of the inventors. Furthermore, the petition states that for 2 of the inventors who had been mailed the documents but did not respond, “[a]ll other efforts to contact [them]... have been unsuccessful”; but the petition does not elaborate what these efforts entail, e.g., name search via the Internet. More over the petition alleges that the remaining inventor refused to sign the application declaration, but does not delineate, through a statement of facts signed by one with firsthand knowledge of the facts recited therein, the circumstances under which this inventor was presented with the application papers and refused to sign.

On 26 April 2004, applicant filed the present petition under 37 CFR 1.47 (b) to accept filing on behalf of non-signing inventors. Filed with the present petition were, inter alia: a response to the notice of missing requirements; a petition for extension of 5 months along with the petition fee \$1050 (small entity); and (3) a declaration unsigned by the nonsigning inventors, identifying the application number and international filing date.

Applicant also submitted a declaration by Kurt R. Redfield, Chief Financial Officer of Neartek, Inc. In the declaration, Mr. Redfield states “On April 9, 2004 I caused an Internet name and address search to be conducted using [the non-signing inventors] last known contact information. On April 15, 2004, I caused another copy of the declaration and application papers to be forwarded to the last known address via FedEx Express delivery service.” According to the FedEx Tracking results, it appears Mr. Blanchett has received the documents, but has not returned the documents. According to FedEx tracking, the other two deliveries resulted in “customer not available or business closed” and “incorrect address” responses.

In response to this declaration, it is not reasonable to expect Mr. Blanchard and the other nonsigning inventors to return the declaration and application papers in less than 30 days, as evidenced by the April 15 delivery date and applicants response date of April 26, which also corresponds to deadline for five months extension of time available under 37 CFR 1.17. Applicant must give adequate time for the non-signing inventors to review and consider the documents. In regards to the Internet search it is unclear as to what directory is being searched. A local telephone directory search for the non-signing inventors should also be conducted along with an Internet search. Thus the instant petition has failed to correct the deficiencies of the previous decision. Further: in regards to Mr. Delbosc, it is questioned why Mr. Redfield did not attempt to reach Mr. Delbosc through his attorneys in the pending lawsuit, instead of having the Fed Ex deliver the package to an “incorrect address”.

CONCLUSION

The petition to accept filing on behalf of non-signing inventors under 37 CFR 1.147(b) is DISMISSED without prejudice as to the National stage in the United States of America.

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

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, PO Box 1450, Alexandria, VA 22231-1450, and USA and address the contents of the letter to the attention of the Office of PCT Legal Administration.

Michael Lebentritt
Detailer
Office of PCT Legal Administration
Telephone (703) 308-6162
Facsimile (703) 308-6459



Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration



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 Alexandria, VA 22313-1450
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Goodwin Procter
 7 Becker Farm Road
 Roseland NJ 07068

In re Application of	:	
DELBOSC, Jean-Marc et al.	:	
Application No.: 10/333,426	:	DECISION ON
PCT No.: PCT/FR01/02381	:	
Int. Filing Date: 20 July 2001	:	PETITION UNDER
Priority Date: 20 July 2000	:	
Attorney Docket No.: 103722-374-NP	:	37 CFR 1.47(b)
For: METHOD FOR SAVING COMPUTER	:	
DATA	:	

This is a decision on applicant's "Second Renewed Petition For Filing On Behalf of Nonsigning Inventor(s)," filed in the United States Patent and Trademark Office (USPTO) on 25 February 2005.

BACKGROUND

On 27 July 2004, the Office mailed Decision on Renewed Petition Under 37 CFR 1.47(b), dismissing applicants' petition without prejudice.

On 25 February 2005, applicants submitted a second renewed petition under 37 CFR 1.47(b), accompanied by the fee for a five month extension of time.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Items (1), (4), (5) and (6) were previously satisfied.

Item (2) has been satisfied as to Claude Blanchet, but not as to Hubert Azambre or Jean-Marc Delbosc. The declaration and application papers were sent to Mr. Blanchet's last known address and accepted, but the declaration has not been returned.

As to Mr. Azambre, a package containing the declaration and application papers was sent to his last known address, but it was not accepted because the addressee was not home. While applicants searched the internet and confirmed his address, they have neither called the phone number to see if the inventor was resident nor conducted a followup internet search ten months later.

As to Mr. Jean-Marc Delbosc, he is involved in litigation with the assignee, he can be contacted through his attorney. His former counsel should be able to provide contact information for the new counsel or for his former client. Mr. Delbosc should have located new counsel by now. Regardless, Mr. Delbosc was in court with the assignee, he could have been presented with a complete copy of the application papers then. Had he refused them, or accepted them and not returned the declaration, a statement of facts from someone with firsthand knowledge of the facts recited therein would have been sufficient.

Item (3) has been satisfied as the Claude Blanchet, but not as to Hubert Azambre or Jean-Marc Delbosc.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". No additional petition fee is required.

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

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292

Facsimile: 571-273-0459



Goodwin Procter
7 Becker Farm Road
Roseland NJ 07068

26 JUL 2006

In re Application of	:	
DELBOSC, Jean-Marc et al.	:	
Application No.: 10/333,426	:	DECISION ON
PCT No.: PCT/FR01/02381	:	
Int. Filing Date: 20 July 2001	:	PETITION UNDER
Priority Date: 20 July 2000	:	
Attorney Docket No.: 103722-374-NP	:	37 CFR 1.47(b)
For: METHOD FOR SAVING COMPUTER	:	
DATA	:	

This is a decision on applicant's "Third Renewed Petition For Filing On Behalf of Nonsigning Inventor(s)," and "Supplemental Third Renewed Petition," filed in the United States Patent and Trademark Office (USPTO) on 07 April 2006 and 23 June 2006, respectively.

BACKGROUND

On 07 September 2005, the Office mailed Decision on Renewed Petition Under 37 CFR 1.47(b), dismissing applicants' petition without prejudice.

On 07 April 2006, applicants submitted a third renewed petition under 37 CFR 1.47(b), accompanied by the fee for a five month extension of time.

On 23 June 2006, applicants submitted a supplement to the third renewed petition.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Items (1), (4), (5) and (6) were previously satisfied.

Item (2) was previously satisfied as to Claude Blanchet, but not as to Hubert Azambre or Jean-Marc Delbosc.

As to Mr. Jean-Marc Delbosc, applicants have supplied a complete copy of the application papers, including the declaration to the inventor, through his counsel. Applicant has not returned an executed declaration. This is adequate evidence of refusal by conduct.

As to Mr. Azambre, applicant previously submitted evidence of an attempted delivery of the application papers to the inventor, but did not establish actual delivery or provide adequate evidence that the address was inventor Azambre's current address. Applicant has now submitted evidence submitted in application no. 10/343,893. In that application, applicant supplemented the showing of attempted delivery with a later Fedex tracking report showing delivery of that package with the application papers for 10/343,893 to inventor Azambre. Applicant has not stated that the papers for 10/333,426 were included in the same package with the 10/343,893 papers, though it is noted that the package number listed in the 26 April 2004 petition matches the package number listed in supplement to the second petition in 10/343,893. As such, proof that applicant received the application papers and declaration for 10/343,893, does not establish receipt of the application papers and declaration for 10/333,426.

Item (3) was previously satisfied as the Claude Blanchet, but not as to Hubert Azambre or Jean-Marc Delbosc. Applicants have now provided the last known address for Hubert Azambre as 10 rue de Valois; les Ulis; F91940; France and Jean Marc Delbosc as c/o M. Pieter-Jan Peeters; PJP Paris, Maitre Peeters; 5 rue St Philippe du Roule; 75008 Paris; France.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". No additional petition fee is required.

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



Erin P. Thomson
Attorney Advisor
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Telephone: 571-272-3292
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29 SEP 2006

#12



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Goodwin Procter
7 Becker Farm Road
Roseland NJ 07068

In re Application of	:	
DELBOSC, Jean-Marc et al.	:	
Application No.: 10/333,426	:	DECISION ON
PCT No.: PCT/FR01/02381	:	
Int. Filing Date: 20 July 2001	:	PETITION UNDER
Priority Date: 20 July 2000	:	
Attorney Docket No.: 103722-374-NP	:	37 CFR 1.47(b)
For: METHOD FOR SAVING COMPUTER	:	
DATA	:	

This decision responds to applicants' 11 September 2006 request to change correspondence address.

BACKGROUND

On 07 September 2005, the Office mailed Decision on Renewed Petition Under 37 CFR 1.47(b), dismissing applicants' petition without prejudice.

On 07 April 2006, applicants submitted a third renewed petition under 37 CFR 1.47(b), accompanied by the fee for a five month extension of time.

On 23 June 2006, applicants submitted a supplement to the third renewed petition.

On 26 July 2006, the Office mailed Decision on Petition dismissing applicants' petition under 37 CFR 1.47(b) without prejudice.

On 11 September 2006, the decision was returned to PCT Legal Administration as undeliverable.

On 11 September 2006, counsel Robert Udal submitted a change of correspondence address.

DISCUSSION

Counsel Robert Udal cannot change the correspondence address as he is not counsel of record and has not been appointed by the inventors. Upon submission of a grantable 37 CFR 1.47(b) petition, the 1.47(b) applicant can change the address or appoint counsel. This decision is being forwarded to Mr. Udal as a courtesy, however, the address of record remains 7 Becker Farm Road; Roseland, NJ 07068.

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Items (1), (5) and (6) were previously satisfied.

Item (2) was previously satisfied as to Claude Blanchet, but not as to Hubert Azambre or Jean-Marc Delbosc.

As to Mr. Jean-Marc Delbosc, applicants have supplied a complete copy of the application papers, including the declaration to the inventor, through his counsel. Applicant has not returned an executed declaration. This is adequate evidence of refusal by conduct.

As to Mr. Azambre, applicant previously submitted evidence of an attempted delivery of the application papers to the inventor, but did not establish actual delivery or provide adequate evidence that the address was inventor Azambre's current address. Applicant has now submitted evidence submitted in application no. 10/343,893. In that application, applicant supplemented the showing of attempted delivery with a later Fedex tracking report showing delivery of that package with the application papers for 10/343,893 to inventor Azambre. Applicant has not stated that the papers for 10/333,426 were included in the same package with the 10/343,893 papers, though it is noted that the package number listed in the 26 April 2004 petition matches the package number listed in supplement to the second petition in 10/343,893. As such, proof that applicant received the application papers and declaration for 10/343,893, does not establish receipt of the application papers and declaration for 10/333,426.

Item (3) was previously satisfied as the Claude Blanchet, but not as to Hubert Azambre or Jean-Marc Delbosc. Applicants have now provided the last known address for Hubert Azambre as 10 rue de Valois; les Ulis; F91940; France and Jean Marc Delbosc as c/o M. Pieter-Jan Peeters; PJP Paris, Maitre Peeters; 5 rue St Philippe du Roule; 75008 Paris; France.

As to item (4), notwithstanding a contrary indication in a prior decision, a declaration by the 37 CFR 1.47(b) applicant in compliance with 37 CFR 1.497(a)-(b) has not yet been submitted. The original declaration failed to state the citizenships of the inventors, as required. Applicants' 26 April 2004 declaration though listing the inventors and their citizenships was not executed.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". No additional petition fee is required.

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

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cc: GOODWIN PROCTER L.L.P.
599 LEXINGTON AVE.
NEW YORK, NY 10022



Muirhead and Saturnelli, LLC
200 Friberg Parkway, Suite 1001
Westborough, MA 01581

19 MAR 2007

In re Application of	:	
DELBOSC et al.	:	
Application No.: 10/333,426	:	DECISION
PCT No.: PCT/FR01/02381	:	
Int. Filing Date: 20 July 2001	:	ON
Priority Date: 20 July 2000	:	
Attorney Docket No.: EMS-143US	:	PETITION
For: Method For Saving Computer Data	:	

This is in response to the petition under 37 CFR 1.181 and the renewed petition under 37 CFR 1.47(b) filed on 05 March 2007.

DISCUSSION

Petition Under 37 CFR 1.181

The Decision mailed on 29 September 2006 set a period for response of TWO (2) MONTHS, extendable pursuant to 37 CFR 1.136(a). Therefore, the period for response, as extended, will expire as of midnight on 30 April 2007 (since 29 April 2007 will be a Sunday). Nevertheless, on 13 February 2007, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with respect to the national stage in the United States for failure to timely reply to the decision mailed on 29 September 2006.

Petitioner requests withdrawal of the holding of abandonment on the basis that it was premature. As review of the record reveals that the mailing of Form PCT/DO/EO/909 on 13 February 2007 in fact was premature, said Form PCT/DO/EO/909 is hereby VACATED.

Renewed Petition Under 37 CFR 1.47(b)

In a Decision mailed on 29 September 2006, the petition under 37 CFR 1.47(b) was dismissed without prejudice because petitioner had not adequately established that inventor Azambre's conduct constituted refusal to execute this application. In particular, petitioner had not adequately shown that a copy of the application papers and an oath or declaration document had been presented to inventor Azambre.

In response, petitioner has provided a "Declaration of Elijah E. Cocks..." stating *inter alia* that he "sent a letter via Federal Express International Air to Mr. Azambre at the above-noted address enclosing a copy of the present patent application, priority documents and a French Language Declaration of Inventorship and requesting that Mr. Azambre execute and return the Declaration of Inventorship by January 1, 2007." Mr. Cocks references an attached Federal Express International Air Waybill and associated tracking information, showing delivery of this parcel on 04 December 2006. Similarly, Mr. Cocks states that he "sent another letter via Federal Express International Air to Mr. Azambre at the above-noted address again enclosing a copy of

the present patent application, priority documents and a French Language Declaration of Inventorship and requesting that Mr. Azambre execute and return the Declaration of Inventorship by January 15, 2007" on 02 January 2007. Mr. Cocks references an attached Federal Express International Air Waybill and associated tracking information, showing delivery of this parcel on 04 January 2007. Mr. Cocks further states that "As of the present date, I have not received any response from Mr. Azambre." Based on the totality of the evidence presently of record, it would now be appropriate to conclude that Mr. Azambre's failure to return the executed declaration after having been presented with the declaration and a copy of the application constitutes a constructive refusal within the meaning of 37 CFR 1.47(b). **Requirement (2)** has been satisfied.

The Decision mailed on 29 September 2006 dismissed the petition under 37 CFR 1.47(b)(without prejudice) for the further reason that petitioner had not provided an acceptable declaration in that the declaration of record "failed to state the citizenships of the inventors." In response, petitioner states that

Applicant submits herewith a Declaration by the 37 C.F.R. 1.47(b) applicant on behalf of the non-signing inventors. The Declaration has been executed by the 37 C.F.R. 1.47(b) applicant on behalf of the non-signing inventors in an addendum page to the Declaration entitled "ADDENDUM TO DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION SIGNED BY THE 37 C.F.R. APPLICANT ON BEHALF OF THE NONSIGNING INVENTORS." The 37 C.F.R. 1.47(b) applicant is the present Assignee, EMC Corporation.

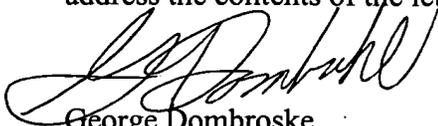
Though the new declaration lists the citizenships of the inventors, it is not acceptable because it has not been signed properly by the 37 CFR 1.47(b) applicant. Rather, the declaration is accompanied by an "Addendum..." which has been signed by Jason Reyes, who is characterized as "an individual authorized to sign on behalf of the Assignee" and as "an authorized representative of EMC Corporation (the 37 C.F.R. 1.47(b) Applicant." In that said "Addendum..." appears to be a separate document, it is not clear that Mr. Reyes executed a complete copy of the declaration document. As such, **requirement (4)** has not been satisfied.

DECISION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

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



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



17 SEP 2007

Muirhead and Saturnelli, LLC
200 Friberg Parkway, Suite 1001
Westborough, MA 01581

In re Application of	:	
DELBOSC et al.	:	
Application No.: 10/333,426	:	DECISION
PCT No.: PCT/FR01/02381	:	
Int. Filing Date: 20 July 2001	:	ON
Priority Date: 20 July 2000	:	
Attorney Docket No.: EMS-143US	:	PETITION
For: Method For Saving Computer Data	:	

This is in response to the renewed petitions under 37 CFR 1.47(b) filed on 21 May and 24 May 2007.

DISCUSSION

In a Decision mailed on 19 March 2007, the renewed petition under 37 CFR 1.47(b) filed on 05 March 2007 was dismissed without prejudice because

The Decision mailed on 29 September 2006 dismissed the petition under 37 CFR 1.47(b)(without prejudice) for the further reason that petitioner had not provided an acceptable declaration in that the declaration of record “failed to state the citizenships of the inventors.” In response, petitioner states that

Applicant submits herewith a Declaration by the 37 C.F.R. 1.47(b) applicant on behalf of the non-signing inventors. The Declaration has been executed by the 37 C.F.R. 1.47(b) applicant on behalf of the non-signing inventors in an addendum page to the Declaration entitled “ADDENDUM TO DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION SIGNED BY THE 37 C.F.R. APPLICANT ON BEHALF OF THE NONSIGNING INVENTORS.” The 37 C.F.R. 1.47(b) applicant is the present Assignee, EMC Corporation.

Though the new declaration lists the citizenships of the inventors, it is not acceptable because it has not been signed properly by the 37 CFR 1.47(b) applicant. Rather, the declaration is accompanied by an “Addendum...” which has been signed by Jason Reyes, who is characterized as “an individual authorized to sign on behalf of the Assignee” and as “an authorized representative of EMC Corporation (the 37 C.F.R. 1.47(b) Applicant.” In that said “Addendum...” appears to be a separate document, it is not clear that Mr. Reyes executed a complete copy of the declaration document. As such, **requirement (4)** has not been satisfied.

In response, petitioner has filed the two instant renewed petitions. Since the 24 May 2007 petition expressly requests that it “REPLACE” the 21 May 2007 petition, the 21 May 2007 petition is not being considered on its merits.

The 24 May 2007 renewed petition is accompanied by a declaration document signed by a representative of the 37 CFR 1.47(b) applicant on behalf of the non-signing inventors. However, inspection of the document reveals that it appears to have been compiled by combining two pages (1 and 2) which appear to be photocopies with two pages (3 and 4) which do not. MPEP 201.03 states in part that

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. For example, where the inventive entity is A and B, a declaration may not be executed only by A naming only A as the inventor and a different declaration may not be executed only by B naming only B as the inventor, which two declarations are then combined into one declaration with a first page of boiler plate, a second page with A's signature, and a second page with B's signature (so that it appears that the declaration was executed with the entire inventive entity appearing in the declaration when it did not).

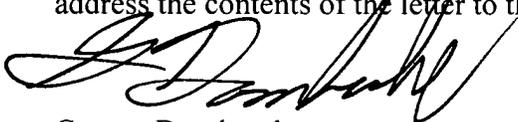
In the instant case, it appears that the individual signing the declaration did not sign a complete copy of the declaration document; rather, the declaration appears to have been assembled after the fact, by combining the signed sheet with the separate, apparently photocopied sheets. Therefore, following the reasoning explained at MPEP 201.03, it would not be appropriate to accept the declaration document as filed on 24 May 2007.

DECISION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

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



George Dombroske
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Muirhead and Saturnelli, LLC
200 Friberg Parkway, Suite 1001
Westborough, MA 01581

07 JAN 2008

In re Application of	:	
DELBOSC et al.	:	
Application No.: 10/333,426	:	DECISION
PCT No.: PCT/FR01/02381	:	
Int. Filing Date: 20 July 2001	:	ON
Priority Date: 20 July 2000	:	
Attorney Docket No.: EMS-143US	:	PETITION
For: Method For Saving Computer Data	:	

This is in response to the renewed petition under 37 CFR 1.47(b) filed on 22 October 2007.

DISCUSSION

In a Decision mailed on 17 September 2007, the renewed petition under 37 CFR 1.47(b) filed on 24 May 2007 was dismissed without prejudice because the declaration filed on 24 May 2007 appeared to have been compiled by combining two pages (1 and 2) which appear to be photocopies with two pages (3 and 4) which do not. The Decision stated that it appeared that the individual signing the declaration did not sign a complete copy of the declaration document; rather, the declaration appears to have been assembled after the fact, by combining the signed sheet with the separate, apparently photocopied sheets. Therefore, following the reasoning explained at MPEP 201.03, the Decision concluded that it would not be appropriate to accept the declaration document as filed on 24 May 2007.

Petitioner has now submitted a declaration document which is acceptable for purposes of satisfying requirement (4) of 37 CFR 1.47(b). Therefore, all of the requirements of 37 CFR 1.47(b) have now been satisfied.

DECISION

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

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

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

The application is being returned to the National Stage Processing Branch for processing as the U.S. National Stage of the above-identified international application. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **22 October 2006**.

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



Muirhead and Saturnelli, LLC
200 Friberg Parkway, Suite 1001
Westborough, MA 01581

07 JAN 2008

In re Application of	:	
DELBOSC et al.	:	
Application No.: 10/333,426	:	DECISION
PCT No.: PCT/FR01/02381	:	
Int. Filing Date: 20 July 2001	:	ON
Priority Date: 20 July 2000	:	
Attorney Docket No.: EMS-143US	:	PETITION
For: Method For Saving Computer Data	:	

This is in response to the renewed petition under 37 CFR 1.47(b) filed on 22 October 2007.

DISCUSSION

In a Decision mailed on 17 September 2007, the renewed petition under 37 CFR 1.47(b) filed on 24 May 2007 was dismissed without prejudice because the declaration filed on 24 May 2007 appeared to have been compiled by combining two pages (1 and 2) which appear to be photocopies with two pages (3 and 4) which do not. The Decision stated that it appeared that the individual signing the declaration did not sign a complete copy of the declaration document; rather, the declaration appears to have been assembled after the fact, by combining the signed sheet with the separate, apparently photocopied sheets. Therefore, following the reasoning explained at MPEP 201.03, the Decision concluded that it would not be appropriate to accept the declaration document as filed on 24 May 2007.

Petitioner has now submitted a declaration document which is acceptable for purposes of satisfying requirement (4) of 37 CFR 1.47(b). Therefore, all of the requirements of 37 CFR 1.47(b) have now been satisfied.

DECISION

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

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

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

The application is being returned to the National Stage Processing Branch for processing as the U.S. National Stage of the above-identified international application. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **22 October 2006**.

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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

COPY MAILED

OCT 22 2007

OFFICE OF PETITIONS

~~**COPY MAILED**~~

~~OCT 19 2007~~

~~OFFICE OF PETITIONS~~

In re Application of :
Donald Martin Monro :
Application Number: 10/333480 : ON PETITION
Filing Date: 01/04/2004 :
Attorney Docket Number: IVAV- :
0037 :

This is a decision on the petition to withdraw the holding of abandonment, filed on 18 September, 2007.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed on 20 April, 2007, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 14 August, 2007.

Petitioner asserts that the Notice mailed on 20 April, 2007, was not received because it was mailed to the wrong address. Specifically, petitioner, in a power of attorney from the assignee filed on 29 July, 2005, appointed the attorneys associated with Customer Number 23377, but that the Office incorrectly used a typed address as the correspondence address.

Upon review, petitioners argument is correct. 37 CFR 1.33 states that the Office will select a Customer Number, if given, over a typed correspondence address.

Additionally, petitioner has submitted a copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the

Holding of Abandonment When Office Actions Are Not Received" 1156
Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c).

As such, there was an irregularity in the mailing of the Notice mailed on 20 April, 2007, in that the Notice was not mailed to the correct correspondence address. Consequently, there is no abandonment in fact.

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

The application file is being referred to Technology Center 2600 technical support staff for re mailing of the Office action mailed on 20 April, 2007. The period for reply will be reset from the mailing date thereof.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions



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Commissioner for Patents
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Paper No.

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PHILADELPHIA PA 19104-2891

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JUN 29 2009

OFFICE OF PETITIONS

In re Application of :
Donald Martin Monro :
Application No. 10/333480 : ON APPLICATION FOR
Filed: January 4, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. **AV-0037 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed August 6, 2008. This matter is being properly treated under 37 CFR 1.705(b) as a timely filed application for patent term adjustment. Applicant requests that the patent term adjustment at the time of the mailing of the notice of allowance be corrected from three hundred eighty-eight (388) days to eight hundred seventy-four (874) days.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED TO THE EXTENT INDICATED HEREIN.**

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 eight hundred seventy-four (874) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On July 24, 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 (PTA) to date three hundred eighty-eight (388) days.

On August 6, 2008, applicant timely submitted the instant application for patent term adjustment¹. Applicant requests that the Determination of Patent Term Adjustment be corrected from 388 days, as indicated on the Determination of PTA mailed July 24, 2008, to an adjustment of 874 days. Applicant asserts that the Notice of Non-Compliant Amendment (37 CFR 1.121), mailed by this Office on March 28, 2006, is not a notification under 35 U.S.C. § 132 as required by 37 CFR 1.702(a)(1), and that the first notification under, a non-final rejection, was mailed August 11, 2006. Applicant does not provide any support for this assertion.

Applicant also asserts that the Notice of Allowance, mailed April 20, 2007, was mailed to an address not of record and so is not a response under 37 CFR 1.702(a)(2). Applicant notes that a timely-filed petition to withdraw the holding of abandonment was granted, and in view thereof a corrected Notice of Allowance was subsequently mailed on July 24, 2008.

Applicant does not dispute the delay of one (1) day attributed to Applicant under 37 CFR 1.704(b), for filing a reply to the non-final Office action, mailed January 8, 2007, more than three (3) months after the mail date of the Office action.

On Office Delay

A review of the application history reveals that applicants are correct. The Notice of Non-Compliant Amendment mailed March 28, 2006 was not a notification under 35 U.S.C. 132 as required by 37 CFR 1.702(a)(1). A non-final Office action was mailed on August 11, 2006. Thus, the date of August 11, 2006, not March 28, 2006, should have been used for the purpose of calculating patent term adjustment. The period of adjustment should have been increased by 525 days pursuant to 37 CFR 1.702(a)(1), counting the number of days beginning on the day after the date that is 14 months after the application was filed, March 5, 2005, and ending on the date that the non-final Office action was mailed, August 11, 2006.

Regarding Applicant's assertion that the Notice of Allowance, mailed April 20, 2007, was mailed to an address not of record, and so was not a response under 37 CFR 1.702(a)(2), the

¹ PALM records show that the Issue Fee payment was received in the Office on October 23, 2008.

application history has been reviewed and it has been determined that applicants are again correct. The Office mailed a Notice of Allowance under section 151 on April 20, 2007, in accordance with 37 CFR 1.702(a)(2). A review of the application history reveals that no response to the Notice of Allowance was considered timely filed by the Office and the application became abandoned. Applicants were advised of the abandonment by notice mailed August 14, 2007. It is specifically noted that the petition to withdraw the holding of abandonment was filed within two months from the mailing date of a notice of abandonment. Thus, there was no applicant delay within the meaning of 37 CFR 1.704(c)(4).

Moreover, by decision mailed October 22, 2007, the petition was granted on the basis that applicants had shown that the Notice was not mailed to the proper correspondence address of record, and was therefore not received by applicants.

Accordingly, the Office's delay should be calculating using date that the Notice was properly mailed to the correspondence address of record, July 24, 2008. The filing of a response on October 23, 2008 to the Notice mailed July 24, 2008 is within the three-month period set forth in 37 CFR 1.704(b).

The mailing of a Corrected Notice of Allowance on July 24, 2008, was 350 days after four months from Applicants response to the non-final Office action, mailed April 9, 2007. Applicants are correct that the period of Office delay under 37 CFR 1.702(a)(2) should be increased by an additional 350 days, counting the number of days beginning on the day after the date that is 4 months after the response to the non-final Office action was filed, April 9, 2007, and ending on the date that the Corrected Notice of Allowance was mailed, July 24, 2008.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **eight hundred seventy-four (874) days** (875 days of PTO delay, reduced by 1 day of applicant delay, subject to any terminal disclaimer).

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

The application is being forwarded to the 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 decision should be directed to Attorney Derek Woods at (571) 272-3232.

A handwritten signature in black ink, appearing to read "Nancy Johnson". The signature is fluid and cursive, with a large loop at the end.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

PALM INTRANET

PTA Calculations for Application: 10/333480			
Application Filing Date:	01/04/2004	PTO Delay (PTO):	389
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	1
Post-Issue Petitions:	0	Total PTA (days):	874
PTO Delay Adjustment:	486		

File Contents History					
Number	Date	Contents Description	PTO	APPL	START
68	06/26/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	350		
67	06/26/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	525		
66	06/26/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		389	
60	07/24/2008	MAIL CORRECTED NOTICE OF ALLOWANCE			
59	07/24/2008	CORRECTED NOTICE OF ALLOWANCE			
57	07/22/2008	WITHDRAW PUBLICATION/PRE-EXAM ABANDON			
56	10/22/2007	MAIL-PETITION TO REVIVE APPLICATION - GRANTED			
55	10/22/2007	PETITION TO REVIVE APPLICATION - GRANTED			
54	10/17/2007	CORRESPONDENCE ADDRESS CHANGE			
53	09/18/2007	PETITION ENTERED			
52	08/14/2007	MAIL ABANDONMENT FOR FAILURE TO PAY ISSUE FEE			
51	08/14/2007	ABANDONMENT FOR FAILURE TO PAY ISSUE FEE			
50	05/03/2007	FINISHED INITIAL DATA CAPTURE			
49	04/24/2007	EXPORT TO INITIAL DATA CAPTURE			
48	04/20/2007	MAIL NOTICE OF ALLOWANCE			
47	04/16/2007	ISSUE REVISION COMPLETED			
46	04/16/2007	DOCUMENT VERIFICATION			
45	04/16/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
44	04/16/2007	CASE DOCKETED TO EXAMINER IN GAU			
43	04/16/2007	NOTICE OF ALLOWABILITY			
42	04/10/2007	DATE FORWARDED TO EXAMINER			
41	04/09/2007	RESPONSE AFTER NON-FINAL ACTION		1	38

40	03/12/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
39	03/06/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
38	01/08/2007	MAIL NON-FINAL REJECTION			
37	01/04/2007	NON-FINAL REJECTION			
36	11/02/2006	DATE FORWARDED TO EXAMINER			
35	10/19/2006	RESPONSE AFTER NON-FINAL ACTION			
34	10/19/2006	NEW OR ADDITIONAL DRAWING FILED			
33	10/11/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
32	10/03/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
31	08/11/2006	MAIL NON-FINAL REJECTION			
30	08/07/2006	NON-FINAL REJECTION			
28	05/24/2006	DATE FORWARDED TO EXAMINER			
27	05/15/2006	RESPONSE AFTER NON-FINAL ACTION			
26	05/15/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
25	03/28/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT	389		-1
24	03/27/2006	MISCELLANEOUS ACTION WITH SSP			
23	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
22	03/07/2006	CASE DOCKETED TO EXAMINER IN GAU			
21	08/19/2005	CORRESPONDENCE ADDRESS CHANGE			
20	08/19/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
19	10/07/2004	CORRESPONDENCE ADDRESS CHANGE			
18	07/29/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17	01/04/2004	CLAIMS PTO			
15	01/04/2004	REFERENCE CAPTURE ON IDS			
13	07/29/2004	CASE DOCKETED TO EXAMINER IN GAU			
12	03/22/2004	CLEARED BY OIPE CSR			
11	01/04/2004	371 COMPLETION DATE			
10	03/02/2004	APPLICATION RETURN FROM OIPE			
9	03/02/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
8	03/02/2004	APPLICATION RETURN TO OIPE			
6	03/02/2004	APPLICATION DISPATCHED FROM OIPE			

5	03/02/2004	NOTICE OF DO/EO ACCEPTANCE MAILED			
4	01/04/2004	ADDITIONAL APPLICATION FILING FEES			
3	01/04/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

Search Another: Application#

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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4/2/09
Patent No. : 7498297
Ser. No. : 10/333485
Inventor(s) : SZETO ET AL.
Issued : 3/3/09
Title : MEDOCINAL USES OF MU-OPIOID RECEPTOR AGONISTS
Docket No. :

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

A certificate of correction will be issued to correct the remaining errors noted in your request.

Henry Randall
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

VEREX PLAZA
150 East Gilman Street
Madison, Wisconsin 53703-1481

HR



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JUL 21 2009

OFFICE OF PETITIONS

In re Patent No. 7,498,297 :
Issue Date: 03/03/2009 :
Application No. 10/333,485 : **ON PETITION**
Filed: 08/25/2003 :
Attorney Docket No. 093873-0139 :

This is a decision on the "REQUEST TO CORRECT ASSIGNEE UNDER 37 CFR 3.81(b)" filed April 21, 2009.

Patentees assert that they inadvertently failed to correctly name the first assignee, Cornell Research Foundation, Inc., on the PTOL-85B. Patentees request correction of the front page of the Letters Patent to include the assignee's correct name via Certificate of Correction. With the present request, patentees submitted a completed Certificate of Correction form and paid the requisite fees. Furthermore, it is noted that the assignment was recorded with the USPTO prior to the issuance of the patent.

In view of the above, the request under 37 CFR 3.81(b) to correct the assignee's name is GRANTED.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JUL 22 2009

OFFICE OF PETITIONS

FOLEY & LARDNER LLP
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In re Patent No. 7,498,297 : DECISION ON REQUEST FOR
Szeto et al. : RECONSIDERATION OF
Issue Date: March 3, 2009 : PATENT TERM ADJUSTMENT
Application No. 10/333,485 : AND NOTICE OF INTENT TO ISSUE
Filed: August 25, 2003 : CERTIFICATE OF CORRECTION
Attorney Docket No.093873-0139 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705, filed April 29, 2009, which is properly treated under 37 CFR 1.705(d). Patentees request that the determination of patent term adjustment for the above-identified patent be corrected from seven hundred seventy-six (776) days to one thousand one hundred forty-five days (1,445) days.

The request for reconsideration of the patent term adjustment indicated in the patent is GRANTED to the extent indicated herein.

Patentees are given **THIRTY (30) DAYS** or **ONE (1) MONTH**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

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 **995 days**.

On March 3, 2009, the above-identified application matured into U.S. Patent No. 7,498,297. The patent issued with a revised patent term adjustment of 776 days. The present request for reconsideration of patent term adjustment was timely filed on

April 29, 2009, within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees aver that the correct number of days of Patent Term Adjustment is 1,445 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays "occur on the same day." Patentees indicate that the periods of delay attributable to grounds specified under 35 U.S.C. 154(b)(1)(A) and 35 U.S.C. 154(b)(1)(B) overlap by 275 days as they occur on the same calendar days in both periods. It appears that patentees contend that this overlapping period is the 275 days running from January 19, 2006 to June 28, 2006 and November 10, 2008 to March 3, 2009. Patentees maintain that the total non-overlapping PTO delay under 35 U.S.C. 154(b)(1)(A) and 35 U.S.C. 154(b)(1)(B) is 1,590 days as these periods do not occur on the same days. Given the 145 days of applicant delay and 275 days of overlap, patentees assert entitlement to 1,445 days of patent term adjustment.

At the outset, it appears that patentees are asserting that the period of adjustment accrued under 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)¹ for the Office taking in excess of three years to

¹ Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides:

Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

- (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
- (2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
- (3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
- (4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
- (5) Any delay in the processing of the application by the Office that was requested by the applicant.

issue the patent is 1,140 days, not 921 days. A review of the record reveals that patentees are correct. That is, the Office did not use the correct 35 U.S.C. 371(b) national stage commencement date of January 18, 2003, in calculating the period of adjustment under 37 CFR 1.703(b). As stated in 37 CFR 1.703(b), the period of adjustment under § 1.702(b) is the number of days in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued. While the date of completion of all 35 U.S.C. 371 requirements, August 25, 2003, is the date used in calculation of the examination delay under 37 CFR 1.703(a), the date the national stage commenced under 35 U.S.C. 371(b), January 18, 2003, is used to determine the Three Year Delay under 37 CFR 1.703(b).

Pursuant to 37 CFR 1.703(b), the period of adjustment under 37 CFR 1.702(b) should be 1,140 days, counting the number of days beginning on the day after the date that is three years after the date on which the national stage commenced under 35 U.S.C. 371, January 19, 2006, and ending on the date the patent issued, March 3, 2009.

As to patentees' interpretation of the period of overlap, the Office finds it inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*² and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term

² Likewise, 37 CFR 1.703(f) provides that:

To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding 37 CFR 1.702 overlap, the period of

adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office, August 25, 2003 to March 3, 2009, (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) and (a)(4),³ 725 (611 + 114) days⁴ of patent term adjustment were accorded during the pendency of the application for Office delay prior to the issuance of the patent. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 1,140 days of patent term adjustment accrued for Office issuance of the patent more than three years after the date the national stage commenced under 35 U.S.C. 371(b).

The 1,140 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 725 days of patent term adjustment under 37 CFR 1.702(a)(1) and (a)(4). Entry of both the 1,140 days and the 725 days is neither permitted nor warranted. 1,140 days is the actual

³ 37 CFR 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

(4) Issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied.

⁴ A Restriction Requirement was mailed on June 28, 2006, 14 months and 611 days after the date on which the requirements under 35 U.S.C. 371 were fulfilled on August 25, 2003. Further, the Office issued the patent on March 3, 2009, 4 months and 114 days after the payment of the issue fee on July 9, 2008.

number of days issuance of the patent was delayed. Accordingly, the additional period of adjustment of 196 days entered by the Office for failing to issue the patent within three years is being removed and the correct period of 415 days is being entered.

In view thereof, the patent term adjustment indicated on the patent should be 995 days.

The Office acknowledges the submission of the \$200.00 fee set forth in 37 CFR 1.18(e). As the \$200.00 fee is required, it will not be refunded.

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 995 days.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

Draft Copy

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,498,297 B2

DATED : Mar. 3, 2009

INVENTOR(S) : Szeto 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 (776) days

Delete the phrase "by 776 days" and insert – by 995 days--



05 JUL 2006

Daniel D Chapman
Jackson Walker
Suite 2100
112 E Pecan
San Antonio TX 78205

In re Application of	:	
LYNCH et al.	:	
Application No.: 10/333,499	:	DECISION
PCT No.: PCT/US02/00128	:	
Int. Filing Date: 04 January 2002	:	
Priority Date: 05 January 2001	:	
Attorney Docket No.: P-109367.02(PCT)(US)	:	
For: LOW PROFILE PIVOTING	:	
JOINT FUSION ASSEMBLY	:	

This application is before the PCT Legal Office for consideration of matters arising under 35 U.S.C. 371.

BACKGROUND

On 04 January 2002, applicant filed international application PCT/US02/00128, which claimed a priority date of 05 January 2001 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 11 July 2002. A Demand for international preliminary examination, in which the United States was elected, was filed on 02 August 2002, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 07 July 2003 (05 July 2003 being a Saturday).

On 21 January 2003, applicant filed a TRANSMITTAL LETTER (FORM PTO-1390) for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, an assertion of small entity status, and a declaration of the inventors. These application papers were assigned application number 10/333,499.

On 28 May 2003, in application number 10/333,499, the United States Designated/Elected Office (DO/EO/US) mailed a NOTICE OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) was mailed according the application a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of 21 January 2003.

On 03 July 2003, applicant filed a second TRANSMITTAL LETTER (FORM PTO-1390) for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, an assertion of small entity status, and a declaration of the inventors. These application papers were temporarily assigned application number **10/250,619**. (A copy of the postcard receipt for this submission was attached to the application file and is enclosed.)

On 14 October 2004, in application number **10/333,499**, the DO/EO/US mailed a WITHDRAWAL OF PREVIOUSLY SENT NOTICE indicating that the Notice mailed 28 May 2003 was sent in error and was withdrawn.

On 14 October 2004, in application number **10/333,499**, the DO/EO/US also mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) identifying the application by the international application number and international filing date was required. The Notification set a two-month extendable period for reply.

On 13 December 2004, in application number **10/333,499**, applicants submitted a new declaration of inventors properly identifying the specification being executed.

DISCUSSION

Submission filed 03 July 2003

As is evident from the above recited facts, applicant submitted two sets of papers to enter the national stage for the same international application. The submission of two sets of national stage papers to enter the United States is improper.

35 U.S.C. 363 states:

An international application designating the United States shall have the effect, from its international filing date under article 11 of the treaty, of a national application for patent regularly filed in the Patent and Trademark Office except as otherwise provided in 102(e) of this title. (emphasis added)

Further, 35 U.S.C. 371(b) states:

(b) Subject to subsection (f) of this section, the national stage shall commence with the expiration of the applicable time limit under article 22(1) or (2), or under article 39(1)(a) of the treaty. (emphasis added)

The language of 35 U.S.C. 363 and 371 refers to the national stage of the PCT in the singular only, and thus only one (1) national stage application in the U.S. may develop from an international application. The Transmittal Letters filed 21 January 2003 and 03 July 2003 indicate that each submission is “concerning a filing under 35 U.S.C. 371” of PCT/US02/00128. No conflicting instructions appear in the application papers. Accordingly, each submission should have been treated as a national stage application submitted under 35 U.S.C. 371. In that only one

national stage of a PCT application is permitted, it would have been proper for all of the submissions to be placed in a single application and assigned a single application number. Accordingly, all of the papers filed on 21 January 2003 and 03 July 2003 have been placed in application number **10/333,499**.

Applicant should use application number **10/333,499** in all future communications with the Patent and Trademark Office in regards to the U.S. national stage of international application PCT/US02/00128.

Declaration of Inventors filed 13 December 2004

The declaration of inventors filed 13 December 2004 is not in compliance with 37 CFR 1.497(a)-(b). The declaration includes two page twos. Each declaration must be complete in and of itself. I.e., each declaration must identify, *inter alia*, each inventor. It is not clear from the declaration filed 13 December 2004 that each declaration presented to and signed by the inventors was complete. It appears that three inventors signed at least two separate declarations. However, only one declaration, which contains two page twos was provided. Applicants must submit either a single declaration executed by all of the inventors, with the exception of any non-signing inventors, or in the alternative a copy of the entire declaration for each signed declaration.

Fees

The fees totaling \$115 submitted on 03 July 2003 will be credited to Deposit Account 07-2400.

CONCLUSION

For the reasons set forth above, the submission filed 21 January 2003 and the submission filed 03 July 2003 have been placed in the file of application number **10/333,499**.

For the reasons set forth above, the application papers filed 21 January 2003 will be processed in application number **10/333,499** as the national stage application of PCT/US02/00128.

Since the reply filed 13 December 2004 appears to have been bona fide, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to provide an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for providing the oath or declaration later than thirty months from the priority date. Extensions of this time period may be granted under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT,

Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Daniel Stemmer

Legal Examiner

PCT Legal Affairs

Office of Patent Cooperation Treaty

Legal Administration

Telephone: (571) 272-3301

Facsimile: (571) 273-0459

Enc.: postcard receipt date-stamped by USPTO for submission filed 03 July 2003



10

16 MAR 2007

NATH & ASSOCIATES
112 SOUTH WEST STREET
ALEXANDRIA, VA 22314

In re Application of BERTILLER	:	
U.S. Application No.: 10/333,508	:	
PCT Application No.: PCT/EP01/08255	:	DECISION
Int. Filing Date: 18 July 2001	:	
Priority Date Claimed: 18 July 2000	:	
Attorney Docket No.: 27326U (formerly 7040)	:	
For: SPORT AND TRANSPORT DEVICE	:	

This is in response to applicant's "Petition to Revive Unintentionally Abandoned Application Under 37 CFR § 1.137(b)" filed 08 March 2007.

BACKGROUND

On 18 July 2001, applicant filed international application PCT/EP01/08255, which claimed priority of an earlier Germany application filed 18 July 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 24 January 2002. A Demand for international preliminary examination, in which the United States was elected, was filed on 15 February 2002, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 18 January 2003.

On 17 January 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 23 May 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 and an English language translation of the international application must be filed.

On 06 August 2004, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to respond in a timely manner to the Notification of Missing Requirements.

On 08 March 2007, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), the petition states that "the entire delay in filing this Response to the Notice of Missing Parts due December 23, 2003 with allowable Extensions of Time, until the filing of this statement and the attached Petition under 37 CFR 1.137(b), is unintentional, as required by 37 CFR 1.137(b)3." This statement is not acceptable because the official due date for reply was 23 July 2003, not 23 December 2003. Petitioner must state that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

Applicant is further advised that 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.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are

available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)". No additional petition fee is required.

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459



10 APR 2007

NATH & ASSOCIATES
112 SOUTH WEST STREET
ALEXANDRIA, VA 22314

In re Application of BERTILLER	:	
U.S. Application No.: 10/333,508	:	
PCT Application No.: PCT/EP01/08255	:	DECISION
Int. Filing Date: 18 July 2001	:	
Priority Date Claimed: 18 July 2000	:	
Attorney Docket No.: 27326U (formerly 7040)	:	
For: SPORT AND TRANSPORT DEVICE	:	

This is in response to applicant's "Renewed Petition Under 37 CFR 1.137(b)" filed 22 March 2007.

BACKGROUND

On 18 July 2001, applicant filed international application PCT/EP01/08255, which claimed priority of an earlier Germany application filed 18 July 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 24 January 2002. A Demand for international preliminary examination, in which the United States was elected, was filed on 15 February 2002, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 18 January 2003.

On 17 January 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 23 May 2003, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 and an English language translation of the international application must be filed.

On 06 August 2004, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to respond in a timely manner to the Notification of Missing Requirements.

On 08 March 2007, applicant a petition under 37 CFR 1.137(b).

On 16 March 2007, this Office mailed a decision dismissing the 08 March 2007 petition.

On 22 March 2007, applicant filed the present renewed petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

Applicant has previously satisfied items (1), (2), and (4) above.

With regard to item (3), the requisite statement has been provided.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 18 July 2001, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 08 March 2007.

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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**THELEN REID BROWN RAYSMAN
& STEINER LLP
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SAN JOSE, CA 95164-0640**

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APR 14 2008

OFFICE OF PETITIONS

In re Application of

ADLER, Yaron

Application No. 10/333,512

Filed: April 15, 2003

Attorney Docket No. 4360/1AUS

**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 January 08, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Customer No. 29858 does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303**



Donald W. Huntley
1105 N. Market Street
P.O. Box 948
Wilmington, DE 19899-0948

COPY MAILED

JUN 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Ichinose, et. al.	:	DECISION ON REQUEST
Application No. 10/333,513	:	TO WITHDRAW FROM
Filed: March 4, 2003	:	RECORD
Attorney Docket No. Midori-1	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed March 27, 2006.

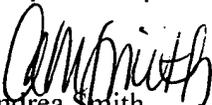
The request is **NOT APPROVED**.

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, “the responsible attorney for the parent cases in Japan has asked that I turn prosecution over to Mr. Brian Gomez”, does not meet any of the conditions set forth in 37 CFR 10.40.

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

There is an outstanding Office action mailed March 15, 2006 that requires a reply from the applicant.

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


Andrea Smith
Petitions Examiner
Office of Petitions

Conferee: 

cc: GOMEZ INTERNATIONAL PATENT OFFICE, LLC
1501 N. RODNEY STREET
SUITE 101
WILMINGTON, DE 19806

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PET DEC

PTO/SB/83 (09-04)

Approved for use through 11/30/2005. OMB 0631-0035
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	10/333,520
	Filing Date	Sept 2, 2000 1/21/03
	First Named Inventor	
	Art Unit	
	Examiner Name	
	Attorney Docket Number	600204565-5

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

Please withdraw me as attorney or agent for the above identified patent application, and

all the attorneys/agents of record.

the attorneys/agents (with registration numbers) listed on the attached paper(s), or

the attorneys/agents associated with Customer Number

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are:

Approved 5/16/05
JmStone
Jacqueline M. Stone Director
Technology Center 1700

CORRESPONDENCE ADDRESS

1. The correspondence address is NOT affected by this withdrawal.

2. Change the correspondence address and direct all future correspondence to:

The address associated with Customer Number:

OR

Firm or Individual Name

Address

City State Zip

Country

Telephone Fax

Signature *William H. Dipperi*

Name: William H. Dipperi, Esq. Registration No. 26,723

Date Telephone No. (212) 790-9200

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 disregarded.

This collection of information is required by 37 CFR 1.39. 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.



15 JUL 2003

Bruce S. Londa
Norris, McLaughlin & Marcus
220 E. 42nd Street
30th Floor
New York, NY 10017

In re Application of	:	
LIEBIG	:	DECISION ON PAPERS
Application No.: 10/333,527	:	
PCT No.: PCT/EP00/07367	:	UNDER 37 CFR 1.42
Int. Filing Date: 31 July 2000	:	
Priority Date: 21 July 2000	:	
Attorney Docket No.: 101194-63	:	
For: UNDERCUT ANCHOR ELEMENT THAT	:	
CAN BE MOUNTED WITH POSITIVE	:	
ENGAGEMENT	:	

This is a decision on the papers filed in United States Patent and Trademark Office (USPTO) on 21 May 2003, which are being treated as a request for acknowledgment of status under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 31 July 2000, applicant filed the international application, which claimed a priority date of 21 July 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 21 January 2002. A Demand for international preliminary examination in which the United States was elected was filed prior to the expiration of 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 21 January 2003.

On 21 January 2003, applicant filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the requisite basic national fee; an English translation of the international application as filed; copy of the International Preliminary Examination Report (Form PCT/IPEA/409) and an English translation of the annexes to the Form PCT/IPEA/409.

On 23 April 2003, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventor, in compliance with 37 CFR

1.497(a) and (b), identifying the application by the international application number and international filing date. In addition, applicant was advised of the need to pay the \$65.00 surcharge for providing an executed oath or declaration of the inventor later than thirty months from the priority date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 21 May 2003, applicant filed the present papers including a combined declaration and power of attorney executed by Dr. Ingrid Liebig-Hundius and Heinz Joachim Liebig on behalf of the deceased inventor Heinrich Liebig.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

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

The declaration filed 21 May 2003 is executed by Dr. Ingrid Liebig-Hundius and Heinz Joachim Liebig on behalf of the deceased inventor Heinrich Liebig as the inventor's heirs. It is not clear whether Dr. Ingrid Liebig-Hundius and Heinz Joachim Liebig constitute all of the heirs of the deceased inventor. In addition, applicant has filed a copy of a document entitled “Joint letters of administration” which appears to show that Dr. Ingrid Liebig-Hundius and Heinz Joachim Liebig succeed Heinrich Liebig each by ½ and thus constitute all of the heirs; however, applicant has not made a showing that the translation was performed by an individual fluent in German. Thus, absent a statement by either Dr. Ingrid Liebig-Hundius and Heinz Joachim Liebig or counsel that the individuals executing the declaration are in fact all of the heirs of the deceased inventor, it is not possible to grant applicant's request at this time. In addition, applicant is advised that said statement should also set forth that no legal representative of the deceased's estate has been appointed or is statutorily required to be appointed.

CONCLUSION

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

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

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



Boris Milef
Legal Examine
Office of PCT Legal Administration



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

30 SEP 2003



UNITED STATES PATENT AND TRADEMARK OFFICE

#7

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Bruce S. Londa
Norris, McLaughlin & Marcus
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New York, NY 10017

In re Application of	:	
LIEBIG	:	
Application No.: 10/333,527	:	
PCT No.: PCT/EP00/07367	:	DECISION ON RENEWED
Int. Filing Date: 31 July 2000	:	
Priority Date: 21 July 2000	:	PETITION UNDER
Attorney Docket No.: 101194-63	:	
For: UNDERCUT ANCHOR ELEMENT THAT	:	37 CFR 1.42
CAN BE MOUNTED WITH POSITIVE	:	
ENGAGEMENT	:	

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.42" filed in United States Patent and Trademark Office (USPTO) on 10 September 2003.

BACKGROUND

On 15 July 2003, applicant was mailed a decision refusing applicant's request for status under 37 CFR 1.42. Applicant was afforded two months to file any request for reconsideration and advised that this period was extendable pursuant to 37 CFR 1.136(a).

On 10 September 2003, applicant filed the present response.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

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

The declaration filed 21 May 2003 was executed by Dr. Ingrid Liebig-Hundius and Heinz Joachim Liebig on behalf of the deceased inventor Heinrich Liebig as the inventor's heirs. Applicant has presently provided a statement from counsel that these two individuals constitute all of the heirs of the deceased inventor and that no legal representative of the deceased's estate has

been appointed nor is statutorily required to be appointed. In addition, applicant has filed a translation of the previously filed "Joint letters of administration" showing that Dr. Ingrid Liebig-Hundius and Heinz Joachim Liebig succeed Heinrich Liebig each by 1/2 and thus constitute all of the heirs as well as a signed statement from Philip Walter Gehrig attesting to his fluency in German and English.

CONCLUSION

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

This application will be given an international application filing date of 31 July 2000 and a date of **21 May 2003** under 35 U.S.C. 371.

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



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

26 APR 2004

45



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Gregory J. Lavorgna
Drinker Biddle & Reath LLP
One Logan Square
18th and Cherry Streets
Philadelphia, PA 19103-6996

In re Application of	:	
AL-OBAIDI, Ala Hayall Reson et al.	:	DECISION ON
US Application No.: 10/333,531	:	
PCT Application No.: PCT/GB01/03287	:	PETITION
Int. Filing Date: 20 July 2001	:	
Priority Date: 21 July 2000	:	UNDER
Attorney's File Reference: 188983	:	
For: RAMAN TECHNIQUE FOR DETECTING	:	37 CFR 1.47(a)
MOLECULAR INTERACTIONS IN	:	
MOLECULARLY IMPRINTED	:	
POLYMERS	:	

This decision is in response to applicant's "CERTIFICATE UNDER 37 CFR 3.73(b) . . . AND PETITION UNDER 1.47(a)", filed 29 January 2004, which is being treated as a petition under 37 CFR 1.47(a) requesting acceptance of the application without the signatures of co-inventors Ala Hayall Reson Al-Obaidi (Al-Obaidi) and Daniel McStay (McStay). The \$130 petition fee has been paid.

BACKGROUND

On 20 July 2001, the applicant filed international application number PCT/GB01/03278 claiming a priority date of 21 July 2000 and listing three inventors: Al-Obaidi, McStay, and Peter John Quinn (Quinn). On 11 February 2002, applicant filed a Demand for international preliminary examination. Accordingly, the 30-month time period for entry into the US national stage under 35 USC 371 expired at midnight on 21 January 2003.

On 21 January 2003, applicant filed a transmittal letter concerning a filing under 35 USC 371 along with, inter alia, the basic national fee. No oath or declaration was attached thereto.

On 30 July 2003, the US Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements indicating that the applicant was required to provide 1) an oath or declaration and 2) the surcharge for providing the oath or declaration later than 30 months from the priority date as required under 37 CFR 1.492(e) within the time period set for response in the notification.

On 29 January 2004, the applicant filed the present "CERTIFICATE UNDER 37 CFR 3.73(b) . . . AND PETITION UNDER 1.47(a)" which is accompanied by, inter alia, 1) a

declaration of inventorship (declaration) signed by Quinn only, 2) a declaration of Yue Huang (Huang declaration), and 3) a declaration of Craig Simon Watson (Watson declaration) including i) in Appendix E, a letter from Craig Simon Watson (Watson) to Al-Obaidi dated 21 January 2004 (Watson/Al-Obaidi letter of 21 January 2004) and ii) in Appendix F, a letter from Watson to McStay dated 21 January 2004 (Watson/McStay letter of 21 January 2004).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventors refuse to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing joint inventors, and (4) an oath or declaration executed by each of the signing joint inventors on their behalf and on behalf of the non-signing joint inventors. A review of the application file reveals that the applicant has satisfied items (1), (3), and (4).

With regard to item (2) above, MPEP section 409.03(d) entitled "Proof of Unavailability or Refusal" states, in part:

REFUSAL TO JOIN

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. The fact that an application may contain proprietary information does not relieve the proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP § 106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

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

When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be

submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

It appears, from the Watson/Al-Obaidi and Watson/McStay letters of 21 January 2004, that the applicant did not provide non-signing co-inventors Al-Obaidi and McStay with complete copies of the application (including the specification, claims, drawings, as well as the declaration) until 21 January 2004, a mere five days prior to the 27 January 2004 execution date of the Watson declaration and a mere eight days prior to the 29 January 2004 filing of the present petition.¹ Further, paragraph 16 of the Watson declaration indicates that, as of 27 January 2004, Watson has not received any further response from either Al-Obaidi or McStay. It is not appropriate to conclude that the conduct of non-signing co-inventors Al-Obaidi and McStay constitutes a refusal at this time in view of the fact that, as of the time of the filing of the present petition, they had only had eight days to review the complete application and had not specifically indicated, after having received the complete application, that they were unwilling to sign. Applicant is required to provide 1) an oath or declaration of inventorship including the signatures of Al-Obaidi and McStay or 2) proof, in accordance with MPEP 409.03(d), that any non-signing co-inventor refuses to sign the oath or declaration after being presented with a complete copy of the application including the claims, specification, and drawings as well as the oath or declaration.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response to this decision will result in ABANDONMENT of the application.

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

Diana Oleksa
Special Programs Examiner
PCT Special Programs Office
Telephone: 703-308-0890



Leonard Smith
PCT Legal Examiner
PCT Legal Office

¹ Also see paragraph 5 of the Huang declaration and paragraphs 4-7, 9, 10, 13, and 14 of the Watson declaration.

28 JUL 2004

#7



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Gregory J. Lavorgna
Drinker Biddle & Reath LLP
One Logan Square
18th and Cherry Streets
Philadelphia, PA 19103-6996

In re Application of	:	
AL-OBAIDI, Ala Hayall Reson et al.	:	DECISION ON
US Application No.: 10/333,531	:	
PCT Application No.: PCT/GB01/03287	:	PETITION
Int. Filing Date: 20 July 2001	:	
Priority Date: 21 July 2000	:	UNDER
Attorney's File Reference: 188983 (8830-224) ¹	:	
For: RAMAN TECHNIQUE FOR DETECTING	:	37 CFR 1.47(a)
MOLECULAR INTERACTIONS IN	:	
MOLECULARLY IMPRINTED	:	
POLYMERS	:	

This decision is in response to applicant's "RENEWED PETITION UNDER 1.47(a)", filed 24 June 2004, requesting acceptance of the application without the signatures of co-inventors Ala Hayall Reson Al-Obaidi (Al-Obaidi) and Daniel McStay (McStay).

BACKGROUND

On 26 April 2004, this Office mailed a decision dismissing applicants' petition under 37 CFR 1.47(a) filed 29 January 2004. The decision stated that the applicant was required to provide 1) an oath or declaration of inventorship including the signatures of Al-Obaidi and McStay or 2) proof, in accordance with MPEP 409.03(d), that any non-signing co-inventor refuses to sign the oath or declaration after being presented with a complete copy of the application including the claims, specification, and drawings as well as the oath or declaration.

On 24 June 2004, the applicant filed the present "RENEWED PETITION UNDER 1.47(a)" which is accompanied by, inter alia, 1) a declaration of Yue Huang (Huang declaration) dated 23 June 2004, and 2) a declaration of Craig Simon Watson (Watson declaration) dated 24 June 2004.

¹ Several of the papers filed by the applicant on 29 January 2004 indicated an attorney docket number of 188983. However, the papers filed by the applicant on 24 June 2004 indicate an attorney docket number of 188983 (8830-224).

DISCUSSION

The Huang and Watson declarations provide factual proof in accordance with 37 CFR 1.47(a) and MPEP section 409.03(d) that the missing joint inventors Al-Obaidi and McStay refuse to execute the application. Accordingly, it is appropriate to grant applicants' petition under 37 CFR 1.47(a) to accept the application without the signatures of co-inventors Al-Obaidi and McStay.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) to accept the above-identified application without the signatures of co-inventors Al-Obaidi and McStay is **GRANTED**.

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the non-signing inventors at their last known addresses of record.

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of this application, including according this application a 35 USC 371 (c) date of 29 January 2004.

Diana Oleksa
Special Programs Examiner
PCT Special Programs Office
Telephone: 703-308-0890



Richard Cole
PCT Legal Examiner
PCT Legal Office



08 SEP 2003

Barnes & Thornburg
PO Box 2786
Chicago, IL 60690-2786

In re Application of :
Tuck et al. :
US Application No.: 10/333,535 :
PCT Application No.: PCT/GB01/02862 :
International Filing Date: 28 June 2001 :
Priority Date: 30 June 2000 :
Attorney's Docket No.: 670-1007 :
For: FIELD ELECTRON EMISSION :
MATERIALS AND DEVICES :

**DECISION ON
PETITION FOR REVIVAL
UNDER 37 CFR 1.137(b)**

The petition to revive under 37 CFR 1.137(b), filed on 21 January 2003 in the above-captioned application, is hereby **GRANTED** as follows.

BACKGROUND

On 28 June 2001, Applicants filed international application PCT/GB01/02862, which claimed priority of an earlier application filed on 30 June 2000. A copy of the international application was communicated from the International Bureau to the USPTO on 10 January 2002. A demand for international preliminary examination, in which the United States was elected, was filed on 28 January 2002, prior to 30 January 2002, the end of the 19th month from the 30 June 2000 priority date. The period for paying the basic national fee is thus 30 months and ended at midnight on 30 December 2002.

The basic national fee was not paid on or before 30 December 2002. The international application became abandoned as to the United States on 31 December 2002.

The instant petition encloses, *inter alia*:

- (1) A transmittal letter for entry into the national stage in the United States (Form PTO-1390), along with the \$900 basic national fee required by 35 U.S.C. 371(c)(1) and 37 CFR 1.495(a)(5);
- (2) The \$1,300 petition fee;

- (3) A statement to the effect that the entire delay in filing a proper oath or declaration from its due date until the filing of the instant petition under 37 CFR 1.137(b) was unintentional.

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

CONCLUSION

In view of the above, the request to revive the application abandoned under 35 U.S.C. 371(d) is **GRANTED** as to the national stage in the United States of America.

Also enclosed with the petition is a declaration which, upon review, is determined to be in compliance with 37 CFR 1.497(a) and (b). Applicants have met the requirements of 37 CFR 1.495 for acceptance into the national stage under 35 U.S.C. 371(c). Consequently, the application has an international filing date of 28 June 2001, and a 35 U.S.C. 371 date of 21 January 2003.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing.



Boris Milef
PCT Legal Examiner
PCT Legal Office



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



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FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK NC 27709-3398**

COPY MAILED

JAN 20 2006

OFFICE OF PETITIONS

In re Application of :
Albinson et al. :
Application No. 10/333,537 : **ON PETITION**
Filed: August 15, 2003 :
Attorney Docket No. PG3978USw :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 20, 2005, to revive the above-identified application.

The petition is **GRANTED**.

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

The Notice of Appeal filed December 19, 2005, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief accompanied by the fee required by law, runs from the date of this decision.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See *In re Application of S.*, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$1020.00 extension of time fee submitted with the Notice of Appeal on December 19, 2005, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

This matter is being referred to Technology Center 1600 for further processing.

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


Liana Chase
Petitions Examiner
Office of Petitions

03 JUN 2003

#3



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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Joanna G. Chiu
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7700 W. Palmer Lane MD: TX32/PL02
Austin, Texas 78729

In re Application of	:	
GARANI, Pradeep	:	
Application No.: 10/333,552	:	
PCT No.: PCT/EP01/07174	:	DECISION ON PETITION
Int. Filing Date: 25 June 2001	:	UNDER 37 CFR 1.137(b)
Priority Date: 30 June 2000	:	
Attorney Docket No.: SC0856ET	:	
For: METHOD AND APPARATUS FOR DATA	:	
MANAGEMENT IN A	:	
TELECOMMUNICATION SYSTEM	:	

The petition to revive under 37 CFR 1.137(b) filed 22 January 2003 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that applicant has submitted the basic national fee of \$900 and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

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

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



10 JUL 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Fish & Richardson P.C.
1425 K Street, N.W., 11th Floor
Washington, DC 20005-3500

In re Application of :
Propp et al. :
US Application No.: 10/333,581 :
PCT Application No.: PCT/US01/12553 :
International Filing Date: 17 April 2001 :
Priority Date: 17 April 2000 :
Attorney's Docket No.: 09539-010US1 :
For: POWER LINE COMMUNICATION :
NETWORK :

**DECISION ON
PETITION FOR REVIVAL
UNDER 37 CFR 1.137(b)**

This decision is in response to the petition under 37 CFR 1.137(b), filed on 24 January 2003.

On 17 April 2001, Applicants filed international application PCT/US01/12553, which claimed priority of an earlier application filed on 17 April 2000. The thirty-month period for entering the national stage ended on 17 October 2002.

The basic national fee required by 37 CFR 1.495(b) was not submitted on or before 17 October 2002. Accordingly, the international application became abandoned as to the United States on 18 October 2002.

The instant petition is accompanied by:

- (1) A transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371;
- (2) The \$720 basic national fee and the \$1,300 petition fee;
- (3) A statement that the entire delay in filing the basic national fee from its due date until the filing of the instant petition under 37 CFR 1.137(b) was unintentional.

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

The petition is thus **GRANTED**.

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



Boris Milef
PCT Legal Examiner
PCT Legal Office



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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07-24-09

TO SPE OF : ART UNIT 3736

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/333582 Patent No.: 7207952

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: The added text following the corrected "chamber" constitutes
new matter added to the specification. The proposed changes do not
rectify a minor error in the specification, but adds a brand new paragraph
plus additional matter to the specification.

Max Humberg
SPE

3736
Art Unit



JONES DAY
555 W. FIFTH STREET, SUITE 4600
LOS ANGELES CA 90013-1025

COPY MAILED

SEP 23 2009

OFFICE OF PETITIONS

In re Application of	:	
GAO, Hanzhong	:	
Application No. 10/333,597	:	DECISION ON PETITION
Filed: January 21, 2003	:	TO WITHDRAW
Attorney Docket No. 427655-100002-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 August 31, 2009.

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 to withdraw less than all attorneys appointed by customer number 34026 cannot be approved. The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number should be made by submitting a "Request for Customer Number Data Change" (PTO/SB/124) which will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant or assignee of the entire interest who appointed all of the practitioners associated with such Customer Number. See MPEP 403 Section I. Customer Number Practice.

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

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


Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **JONES DAY**
555 SOUTH FLOWER STREET
FIFTIETH FLOOR
LOS ANGELES CA 90071



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

gm

Mailed: 7-20-07

In re application of	:	
Wenderoth et al..	:	DECISION ON
Serial No. 10/333,611	:	PETITION
Filed: January 22, 2003	:	
For: ANTIFREEZE CONCENTRATES BASED	:	
ON AMIDES, AND COOLANT COMPOSITIONS	:	
COMPRISING THEM AND INTENDED FOR	:	
PROTECTING MAGNESIUM AND MAGNESIUM	:	
ALLOYS	:	

This is a decision on the PETITION FOR WITHDRAWAL UNDER 37 CFR 1.181, filed April 18, 2007.

On July 18, 2006, a non-final office action was mailed to applicants. The office action contained various rejections including a rejection of claims 1-7, 9 and 10 under 35 USC 102(b)/103 over US Patent 4,404,113 to Peters et al. and a rejection of claims 1-4, 6, 7, 9, and 10 under 35 USC 103 over EP 251480 in view of US Patent 3,362,910 to Ordelt et al. Claims 1-7 and 9-11 were then pending, with claim being withdrawn from consideration.

A reply to the office action was filed on October 18, 2006. In the reply, applicants amended independent claim 1 by incorporating the limitations of claim 5 therein, and by further requiring that when the claimed compound (a) is aliphatic, amides of the compound are unsubstituted or alkyl-substituted on the nitrogen atom of the amido group. The amendment overcame the 35 USC 102(b)/103 rejection over Peters et al. as well as the 35 USC 103 rejection over EP '480 in view of Ordelt et al.

On January 5, 2007 a final office action was mailed. The previous rejections were withdrawn and a new ground of rejection was added. The new prior art rejection was under 35 USC 102(b)/103 over Ordelt et al. The examiner stated in the office action that the new ground of rejection was necessitated by Applicant's amendments to the claims and the office action was made final. Applicant requested withdrawal of finality in a response filed April 5, 2007, which was denied by the examiner in the advisory action of April 13, 2007.

The instant petition was then timely filed on April 18, 2007 and is before the Director of Technology Center 1700 for consideration. The petition requests that the finality of the January 5, 2007 action be withdrawn.

The petition is **DENIED** for the reasons given below.

DECISION

Section 706.07(a) of the MPEP states:

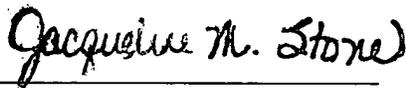
706.07(a) Final Rejection, When Proper on Second Action

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

Applicant essentially argues that Ordelt et al. could have been applied in the non-final rejection of July 18, 2006, but was not, and hence the January 5, 2007 action should not be made final.

The non-final office action contained a proper rejection under 35 USC 102(b)/103 of all the pending claims and an additional rejection under 35 USC 103 of other claims. Applicant amended the independent claim to overcome these rejections. When applicant amended the claim to overcome the prior art, further consideration was required as to the patentability of the newly presented claim. The new rejection was required due to applicant's amendment to the claim. That Ordelt et al. could have been applied in the non-final office action does not make the final rejection improper, as there is no requirement that an examiner make every possible prior art rejection in every action. In the instant case, at the time the non-final office action was being prepared, the examiner had no way of knowing that applicant would choose to amend the claims in the manner done so as to necessitate a different rejection.

Accordingly, the finality of the January 5, 2007 office action was proper. The request to withdraw the finality is **DENIED**.



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

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WASHINGTON DC 20005



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2200 Clarendon Blvd., Suite 1400
ARLINGTON, VA 22201

In re Application of: DUECKER et al.	:	
Application No.: 10/333,629	:	
PCT Application No.: PCT/EP01/08209	:	
Int. Filing Date: 17 July 2001	:	
Priority Date Claimed: 25 July 2000	:	DECISION ON
Attorney Docket No.: MERCK-2613	:	PETITION UNDER
For: NOVEL PROTEIN CONTAINING RING	:	37 CFR 1.137(b)
FINGER DOMAINE R1P4	:	

This is a decision on the "Petition for Revival of an International Application for Patent Unintentionally Abandoned under 37 CFR 1.137(b)," filed on 28 October 2005. This is also a decision on the Request for Refund under 37 CFR 1.26.

BACKGROUND

On 17 July 2001, applicant filed international application PCT/EP01/08209, which claims a priority date of 25 July 2000 and designates the United States. A demand for electing the U.S. was filed on 12 February 2002. Accordingly, the thirty-month period for commencement of the national stage in the United States and paying the basic national fee expired at midnight on 27 January 2003 (25 January 2003 being a Saturday).

On 23 January 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US).

On 02 June 2003, a Notification of Missing Requirements (PCT/DO/EO/905) was mailed to the applicant requiring the submission of (1) an executed oath or declaration of the inventors, (2) a \$130 surcharge and (3) a copy of the sequence listing in computer readable format with the required statements. The Notification set a time period of 32 months from the priority date or 2 months from the date of the notice, whichever expires later, within which to submit the missing requirements.

On 24 December 2003, applicant responded to the Notification of Missing Requirements with an executed declaration of the inventors, (2) the \$130 surcharge, (3) a copy of the sequence

listing in computer readable format with the required statements and (4) a request for a five-month extension of time.

On 10 March 2004, a Notification of Defective Response (PCT/DO/EO/916) was mailed to the applicant, indicating that the Declaration submitted on 24 December 2003 did not comply with 37 CFR 1.497 in that inventor Tanja Ruth was listed on the International Application and listed Tanja Thole (Rueth) on the Declaration. The Notification required the applicant to submit a new oath or declaration in compliance with 37 CFR 1.497(a) and (b) within a time limit of one month from the date of the Notification or within the time remaining in the response set forth in the Notification of Missing Requirements, whichever is longer. No extension of the one-month time limit was permitted under 37 CFR 1.136(a), but the Notification indicated that the period for response to the Notification of Missing Requirements may be extended under 37 CFR 1.136(a).

On 01 July 2004, applicant filed a response to the Notification of Defective Response, along with a request for a three-month extension of time pursuant to 37 CFR 1.136(a). The response included a Declaration by Tanja Rueth stating that she had become married and wished to be recognized by her married name, Tanja Thole.

On 08 December 2004, applicant filed a supplemental response to the Notification of Defective Response, providing a Declaration for Patent Application and Power of Attorney bearing the signature of Tanja Rueth.

On 01 September 2005, a Communication was mailed to the applicant indicating that the request for a three-month extension was improper, since there was no extension of time possible under 37 CFR 1.136(a) for the one-month time limit set in the Notification of Defective Response, and the period for response to the Notification of Missing Requirements had already been extended by five months (the maximum permitted under 37 CFR 1.136(a)) in the response to the Notification of Missing Requirements filed on 24 December 2003. The Communication indicated that consequently the application was abandoned.

On 28 October 2005, applicant filed the instant petition for revival under 37 CFR 1.137(b). The petition includes a copy of the Declaration submitted on 08 December 2004.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) the required reply, (2) the petition as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

With respect to item (1), the petition fails to include the required reply. The Notification of Defective Response required an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b). The Declaration submitted on 24 December 2003 did not comply with 37 CFR 1.497 in that Tanja Ruth was listed as an inventor on the International Application but Tanja Thole (Rueth) was listed on the Declaration. The Declaration submitted on 01 July 2004 indicated that Tanja Rueth had become married and wished to be recognized by her married name, Tanja Thole. The Declaration submitted on 08 December 2004 (and resubmitted on 28 October 2005) is executed by Tanja Rueth. Consequently, it is not clear whether the inventor executing the Declaration is to be identified by name as Tanja Thole or Tanja Rueth.

Clarification is required as to whether the inventor in question is to be identified by name as Tanja Thole or Tanja Rueth. Absent such clarification, the Declaration submitted on 08 December 2004 (and resubmitted on 28 October 2005) cannot be accepted as being in compliance with 37 CFR 1.497(a) and (b), since it is not evident that it correctly identifies each inventor, as required by 37 CFR 1.497(a)(3).

Petitioner is reminded that where there has been no change of inventorship but the name of an inventor indicated in the international application during the international phase has changed such that the inventor's name is different from the corresponding name indicated in an oath or declaration submitted under 37 CFR 1.497, for example, on account of marriage, then a petition under 37 CFR 1.182 will be required to accept the oath or declaration with the changed name. See MPEP § 1893.01(e).

CONCLUSION

For the reason indicated above, the petition to revive the application abandoned under 37 CFR 1.137(b) is **DISMISSED** without prejudice. The application remains **ABANDONED** as to the National Stage in the United States of America.

Regarding the request for refund under 37 CFR 1.26, the request for a three-month extension of time pursuant to 37 CFR 1.136(a), filed on 01 July 2004, was improper for the reasons indicated in the 01 September 2005 Communication. Consequently, the accompanying \$950 extension fee was paid in error. Accordingly, **the \$950 extension fee is being credited to petitioner's Deposit Account #13-3402.**

If reconsideration of this decision is desired, a request for reconsideration must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." The request should include a statement from the inventor in question indicating whether she is to be identified by name as Tanja Thole or Tanja Rueth. If the inventor's name has changed on account of marriage, then the request should include a petition under 37 CFR 1.182 to accept the oath or declaration with the changed name, i.e., the Declaration submitted on 24 December 2003.

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



John Chapman
PCT Legal Administration Detailee
Telephone: 571-272-6095
Facsimile: 571-273-0459



Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration



18 JUL 2006

#12

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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
Arlington Courthouse Plaza 1
2200 Clarendon Blvd., Suite 1400
ARLINGTON, VA 22201

In re Application of: DUECKER et al.	:	
Application No.: 10/333,629	:	
PCT Application No.: PCT/EP01/08209	:	
Int. Filing Date: 17 July 2001	:	DECISION ON
Priority Date Claimed: 25 July 2000	:	PETITIONS UNDER
Attorney Docket No.: MERCK-2613	:	37 CFR 1.137(b)
For: NOVEL PROTEIN CONTAINING RING	:	AND 1.182
FINGER DOMAINE R1P4	:	

This is a decision on the renewed Petition for Revival of an International Application for Patent Unintentionally Abandoned under 37 CFR 1.137(b), filed on 14 June 2006. This is also a decision on the Petition to Accept Declaration with Changed Name of Inventor under 37 CFR 1.182.

BACKGROUND

On 17 July 2001, applicant filed international application PCT/EP01/08209, which claims a priority date of 25 July 2000 and designates the United States. A demand for electing the U.S. was filed on 12 February 2002. Accordingly, the thirty-month period for commencement of the national stage in the United States and paying the basic national fee expired at midnight on 27 January 2003 (25 January 2003 being a Saturday).

On 23 January 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US).

On 02 June 2003, a Notification of Missing Requirements (PCT/DO/EO/905) was mailed to the applicant requiring the submission of (1) an executed oath or declaration of the inventors, (2) a \$130 surcharge and (3) a copy of the sequence listing in computer readable format with the required statements. The Notification set a time period of 32 months from the priority date or 2 months from the date of the notice, whichever expires later, within which to submit the missing requirements.

On 24 December 2003, applicant responded to the Notification of Missing Requirements with an executed declaration of the inventors, (2) the \$130 surcharge, (3) a copy of the sequence listing in computer readable format with the required statements and (4) a request for a five-month extension of time.

On 10 March 2004, a Notification of Defective Response (PCT/DO/EO/916) was mailed to the applicant, indicating that the Declaration submitted on 24 December 2003 did not comply with 37 CFR 1.497 in that inventor Tanja Ruth was listed on the International Application and listed Tanja Thole (Rueth) on the Declaration. The Notification required the applicant to submit a new oath or declaration in compliance with 37 CFR 1.497(a) and (b) within a time limit of one month from the date of the Notification or within the time remaining in the response set forth in the Notification of Missing Requirements, whichever is longer. No extension of the one-month time limit was permitted under 37 CFR 1.136(a), but the Notification indicated that the period for response to the Notification of Missing Requirements may be extended under 37 CFR 1.136(a).

On 01 July 2004, applicant filed a response to the Notification of Defective Response, along with a request for a three-month extension of time pursuant to 37 CFR 1.136(a). The response included a Declaration by Tanja Rueth stating that she had become married and wished to be recognized by her married name, Tanja Thole.

On 08 December 2004, applicant filed a supplemental response to the Notification of Defective Response, providing a Declaration for Patent Application and Power of Attorney bearing the signature of Tanja Rueth.

On 01 September 2005, a Communication was mailed to the applicant indicating that the request for a three-month extension was improper, since there was no extension of time possible under 37 CFR 1.136(a) for the one-month time limit set in the Notification of Defective Response, and the period for response to the Notification of Missing Requirements had already been extended by five months (the maximum permitted under 37 CFR 1.136(a)) in the response to the Notification of Missing Requirements filed on 24 December 2003. The Communication indicated that consequently the application was abandoned.

On 28 October 2005, applicant filed a petition for revival under 37 CFR 1.137(b). The petition includes a copy of the Declaration submitted on 08 December 2004. The Declaration submitted on 08 December 2004, however, was executed by Tanja Rueth, whereas Tanja Thole (Rueth) was listed on the Declaration submitted on 24 December 2003.

On 30 May 2006, the petition was dismissed, since it was not clear that the Declaration submitted on 08 December 2004 correctly identifies the inventor, as required by 37 CFR 1.497(a)(3).

On 14 June 2006, applicant filed the instant petition requesting reconsideration of the decision of 30 May 2006. The petition is accompanied by a Petition under 37 CFR 1.182 to Accept Declaration with Changed Name of Inventor.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) the required reply, (2) the petition as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

With respect to item (1), the Notification of Missing Requirements mailed on 02 June 2003 required the submission of an executed oath or declaration of the inventors. The executed declaration submitted on 24 December 2003 identifies Tanja Thole as an inventor. As set forth in MPEP § 1893.01(e), "Where there has been no change of inventorship but the name of an inventor indicated in the international application during the international phase has changed such that the inventor's name is different from the corresponding name indicated in an oath or declaration submitted under 37 CFR 1.497, for example, on account of marriage, then a petition under 37 CFR 1.182 will be required to accept the oath or declaration with the changed name."

The present petition to revive an abandoned application under 37 CFR 1.137(b) is accompanied by a petition under 37 CFR 1.182 to accept the declaration filed on 24 December 2003 with the name of inventor Tanja Rueth changed to Tanja Thole due to marriage. The petition is consistent with the Declaration submitted on 01 July 2004 stating that the inventor named Tanja Rueth in PCT/EP01/08209 had become married and wished to be recognized by her married name, Tanja Thole. Accordingly, the petition under 37 CFR 1.182 to accept the Declaration filed on 24 December 2003 with the name of inventor Tanja Rueth changed to Tanja Thole is hereby accepted.

In view of the acceptance of the executed declaration filed on 24 December 2003, the petition is deemed to include the required reply to the Notification of Missing Requirements mailed on 02 June 2003.

CONCLUSION

For the reasons indicated above, the Petition to Accept Declaration with Changed Name of Inventor under 37 CFR 1.182 is **GRANTED**. The Declaration filed on 24 December 2003 with the name of inventor Tanja Rueth changed to Tanja Thole is accepted. The Declaration filed on 08 December 2004 will be disregarded.

For the reasons indicated above, the Petition for Revival of an International Application for Patent Unintentionally Abandoned under 37 CFR 1.137(b) is **GRANTED**.

The application has an International Filing Date under 35 U.S.C. 363 of 17 July 2001, and a date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) of 24 December 2003.

The application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing in accordance with this decision.



John Chapman
PCT Legal Administration Detailee
Telephone: 571-272-6095
Facsimile: 571-273-0459



Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

19 NOV 2004



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www.uspto.gov

Lisa M. Hemmendinger
Banner & Witcoff, Ltd.
1000 G Street, N. W., Eleventh Floor
Washington, DC 2001-4597

In re Application of :
KOSSIDA : DECISION ON
Application No.: 10/333,631 :
PCT No.: PCT/EP01/08693 : PETITION
Int. Filing Date: 27 July 2001 :
Priority Date: 31 July 2000 : UNDER 37 CFR 1.181
Attorney's Docket No.: 004974.00923 :
For: REGULATION OF HUMAN PHOSPHATIDYLINOSITOL- :
SPECIFIC PHOSPHOLIPASE C-LIKE ENZYME :

This decision is in response to applicant's PETITION UNDER 37 CFR 1.181 filed 11 August 2004, requesting a corrected 35 U.S.C. 371(e) date and has been **GRANTED** as follows:

BACKGROUND

On 23 January 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). An oath or declaration as required by 35 U.S.C. 371(c)(4) was not filed.

On 12 May 2003, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration and the \$130 surcharge for providing the declaration later than 30 months must be filed. The notification set a two-month time limit in which to respond.

On 23 May 2003 1997, applicant filed a response urging that applicants had filed a declaration in compliance with 35 U.S.C. 371(c)(4) and the surcharge for submitting a declaration later than 30 months from the priority date on 06 March 2003.

On 12 June 2003, the United States Designated/Elected Office mailed a Notification of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903).

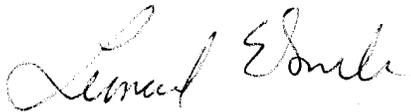
On 11 August 2004, applicant filed the current petition requesting correction of the 35 U.S.C. 371(e) date and a corrected Official Filing Receipt be issued.

DISCUSSION

Applicant has submitted copies of a transmittal letter, declaration and an itemized post card receipt. The post card receipts indicates that a declaration and authorization to charge the deposit account \$170 was included with the mailing. Additionally, the post card is stamped "OIPE JC76 PATENT & TRADEMARK OFFICE MAR 06 2003." In view of this evidence it is concluded that the aforementioned items were received on 06 March 2003. The filing of the declaration on 06 March 2003 completed the requirements under 35 U.S.C. 371 for entry into the national stage.

In view of the above the Notification of Acceptance and the Official Filing Receipt are in error and are hereby vacated.

The National Stage Processing Branch of the International Division is instructed to issue a corrected Notification of Acceptance and Official Filing Receipt indicating a 35 U.S.C. 371(c)(1), (c)2) and (c)(4) date of **06 March 2003**.



Leonard E. Smith
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration

LES:ls

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10 JAN 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

#7

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San Francisco, California 94111-3834

In re Application of :
MEIER, Thomas et al. : DECISION ON
US Application No.: 10/333,639 :
PCT Application No.: PCT/EP01/07984 :
Int. Filing Date: 11 July 2001 : PETITION UNDER
Priority Date: 20 July 2000 :
Attorney's File Reference: 086034-000000US :
For: NOVEL METHOD AND ASSAYS FOR : 37 CFR 1.181
YEAST-BASED DRUG SCREENING :

This is a decision on applicants' "Petition To Withdraw Holding of Abandonment" filed on 10 September 2004.

BACKGROUND

On 12 February 2003, a Notice to File Missing Parts of Nonprovisional Application (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors and a surcharge under 37 CFR 1.492 (e), with a deadline to file the requisite response by 12 April 2004.

On 29 April 2003, applicants filed a Response to Notification of Missing Requirements.

On 16 August 2004, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with respect to the national stage in the United States for failure to timely reply to the Notification of Missing Requirements.

On 10 September 2004, applicants filed the present petition.

DISCUSSION

A review of the application file reveals that all of the papers filed 29 April 2003 are located in the file with the exception of the declaration of the inventors. Applicants have provided sufficient evidence to establish that a proper response to the Form PCT/DO/EO/905, in the form of a declaration of the inventors, was filed 29 April 2003. The proof is in the form of the copy of the receipt for the present application which bears a PTO datestamp of "29 April 2003" and which itemizes, *inter alia*, "Declaration". Therefore, in view of the postcard receipt and counsel's statement in the present petition that the copy of the declaration as submitted with

the present petition was mailed "on April 24, 2003", the copy of the declaration may properly be accepted as having been filed on 29 April 2003.

The holding of abandonment is hereby WITHDRAWN and the NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) mailed 16 August 2004, is hereby VACATED.

DECISION

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is GRANTED.

Applicant's claim for priority is acknowledged. The application has an international filing date of 11 July 2001 under 35 U.S.C. 363 and a date of 29 April 2003 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

Ula Ruddock

Ula Ruddock
PCT Legal Administration Detailee
PCT Special Programs Office
Telephone: 571-272-3279



Richard Cole
PCT Legal Examiner
PCT Legal Office



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/333,641	01/21/2003	Young Ro Byun	T10035	9763
20450	7590	01/06/2004	EXAMINER	
ALAN J. HOWARTH P.O. BOX 1909 SANDY, UT 84091-1909			EYLER, YVONNE L	
			ART UNIT	PAPER NUMBER

1646

DATE MAILED: 01/06/2004

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



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DEC 29 2003

ALAN J. HOWARTH
P.O. BOX 1909
SANDY UT 84091-1909

In re Application of :
Young Ro Byun et al :
Serial No.: 10/333,641 : PETITION TO MAKE SPECIAL
Filed: January 21, 2003 :
Attorney Docket No.: T10035 :

This is in response to applicants' petition filed October 27, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

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

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

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

23 JUN 2003

#3



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Douglas W. Sprinkle
Gifford, Krass, Groh, Sprinkle,
Anderson & Citkowski, P.C.
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Birmingham, MI 48009

In re Application of	:	DECISION ON
ECKHARD, Arnold	:	
Application No.: 10/333,651	:	
PCT No.: PCT/EP01/02564	:	PETITION UNDER
Int. Filing Date: 07 March 2001	:	
Priority Date: 07 March 2000	:	37 CFR 1.137(b)
Attorney's Docket No.: MFA-15802/04	:	
For: SEALING DEVICE	:	

This decision is in response to applicants' "Petition For Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 23 January 2003.

BACKGROUND

On 07 March 2001, this international application was filed, claiming an earliest priority date of 07 March 2000. A copy of the intentional application was transmitted on 04 October 2001 to the USPTO from the International Bureau.

No Demand electing the United States was filed in this international application. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.494 was 07 November 2002. This international application became abandoned with respect to the United States at midnight on 07 November 2002 for failure to pay the required basic national fee.

On 23 January 2003, applicants filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by the petition fee, and basic national fee. No executed declaration or oath was submitted at such time.

On 17 April 2003, applicants filed a second Transmittal letter accompanied by an executed declaration.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in § 1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371. The 35 USC 371 date of this application is 17 April 2003.



Rafael Bacares
PCT Legal Examiner
PCT Legal Office
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02 APR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

#3

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

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER
1300 I STREET, NW
WASHINGTON, DC 20005

In re Application of	:	DECISION ON
GÉRARD LANG	:	
Serial No.: 10/333,663	:	
PCT No.: PCT/FR01/00644	:	PETITION UNDER
Int. Filing Date: 05 March 2001	:	
Priority Date: 06 March 2000	:	
Attorney's Docket No.: 05725.1093	:	37 CFR 1.181
For: OXIDATION DYEING COMPOSITION FOR	:	
KERATINOUS FIBRES WITH A PARTICULAR	:	
PARAPHENYLENEDIAMINE DERIVATIVE AND A	:	
PARTICULAR DIRECT DYEING AGENT	:	

This decision is in response to applicant's "PETITION UNDER 37 CFR 1.181", filed in the United States Patent and Trademark Office (USPTO) on 21 January 2003, to accord a filing date of 05 September 2002 to the above-identified national stage application papers. No petition fee is required.

BACKGROUND

On 05 March 2001, applicant filed international application No. PCT/FR01/00644 which claimed a priority date of 06 March 2000 and which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 13 September 2001.

On 24 August 2001, a Demand was filed with the International Preliminary Examining Authority electing the United States. As a result the deadline for payment of the basic national fee was to expire 30 months from the priority date, or on 06 September 2002.

On 05 September 2002, applicant filed a transmittal letter requesting entry into the national stage in the United States accompanied by, *inter alia*, authorization to charge the basic national fee to applicant's deposit account. The USPTO's Office of Initial Patent Examination (OIPE) accorded a filing date of 05 September 2002 to the itemized post card receipt.

On 23 January 2003, counsel provided true copies of the official receipt postcard date-stamped by the USPTO on 05 September 2002 and the National Stage papers, including the transmittal letter concerning a filing under 35 U.S.C. 371, the English translation of International Application No. PCT/FR01/00644 (60 sheets), the cover page of WIPO Publication No. WO 01/66068, Information Disclosure Statement and Form PTO 1449 with documents attached. This submission was assigned U.S. application no. 10/333,663. Applicant filed the present petition requesting acceptance of the copies for the original filing based upon the itemized postcard receipt date-stamped by the USPTO "OIPE SEP 05 2002 PATENT AND TRADEMARK OFFICE".

DISCUSSION

A review of the USPTO application files reveals that the original Transmittal Letter and associated papers filed on 05 September 2002 have not been located. A copy of the itemized postcard receipt bearing the international application number, attorney docket number, title of the invention, name of inventor is date-stamped by the USPTO "SEP 05 2002".

The postcard receipt date-stamped 05 September 2002 itemizing transmittal letter concerning a filing under 35 U.S.C. 371, the English translation of International Application No. PCT/FR01/00644 (60 sheets), the cover page of WIPO Publication No. WO 01/66068, Information Disclosure Statement and Form PTO 1449 with documents attached and check in the amount of \$1602.00 constitutes *prima facie* evidence of receipt of these documents. In the instant petition, counsel for applicants certifies that the aforementioned copies were true copies of the documents filed on 05 September 2002. The USPTO date-stamped, itemized postcard receipt also bears the attorney docket number, international application number, title of invention and name of inventor. There is no indication of a preliminary assignment of U.S. serial number.

The evidence of record is sufficient to establish with reasonable certainty that the transmittal letter concerning a filing under 35 U.S.C. 371, the English translation of International Application No. PCT/FR01/00644 (60 sheets), the cover page of WIPO Publication No. WO 01/66068, Information Disclosure Statement and Form PTO 1449 with documents attached were deposited in the PTO on 05 September 2002. Accordingly, it is appropriate to accord the date of receipt of the above mentioned papers a date of 05 September 2002.

CONCLUSION

Applicant's petition under 37 CFR 1.181 requesting that a copy of the national stage papers be accorded a receipt date of 05 September 2002 is **GRANTED**. The application papers are assigned U.S. application no. 10/333,663.

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

Application No.:10/333,663

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decision, that is, for according the national stage papers a receipt date of **05 September 2002** and issuance of a Notification of Missing Requirements (FORM PCT/DO/EO/905) indicating that an oath or declaration, in compliance with 37 CFR 1.497, and the surcharge for filing the oath or declaration after the thirty month period are required.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

CMK:cmk

Telephone: 703-306-5467
Facsimile: 703-308-6459



02 APR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

#3

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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER
1300 I STREET, NW
WASHINGTON, DC 20005

In re Application of	:	DECISION ON
GÉRARD LANG	:	
Serial No.: 10/333,664	:	
PCT No.: PCT/FR01/00646	:	PETITION UNDER
Int. Filing Date: 05 March 2001	:	
Priority Date: 06 March 2000	:	
Attorney's Docket No.: 05725.1094	:	37 CFR 1.181
For: OXIDATION DYEING COMPOSITION FOR	:	
KERATINOUS FIBRES AND DYEING METHOD	:	
USING SAME	:	

This decision is in response to applicant's "PETITION UNDER 37 CFR 1.181", filed in the United States Patent and Trademark Office (USPTO) on 21 January 2003, to accord a filing date of 05 September 2002 to the above-identified national stage application papers. No petition fee is required.

BACKGROUND

On 05 March 2001, applicant filed international application No. PCT/FR01/00646 which claimed a priority date of 06 March 2000 and which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 13 September 2001.

On 24 August 2001, a Demand was filed with the International Preliminary Examining Authority electing the United States. As a result the deadline for payment of the basic national fee was to expire 30 months from the priority date, or on 06 September 2002.

On 05 September 2002, applicant filed a transmittal letter requesting entry into the national stage in the United States accompanied by, *inter alia*, authorization to charge the basic national fee to applicant's deposit account. The USPTO's Office of Initial Patent Examination (OIPE) accorded a filing date of 05 September 2002 to the itemized post card receipt.

On 23 January 2003, counsel provided true copies of the official receipt postcard date-

stamped by the USPTO on 05 September 2002 and the National Stage papers, including the transmittal letter concerning a filing under 35 U.S.C. 371, the English translation of International Application No. PCT/FR01/00646 (53 sheets), the cover page of WIPO Publication No. WO 01/66070, Information Disclosure Statement, Information Disclosure Citation and Form PTO 1449 with documents attached. This submission was assigned U.S. application no. 10/333,663. Applicant filed the present petition requesting acceptance of the copies for the original filing based upon the itemized postcard receipt date-stamped by the USPTO "OPE SEP 05 2002 PATENT AND TRADEMARK OFFICE".

DISCUSSION

A review of the USPTO application files reveals that the original Transmittal Letter and associated papers filed on 05 September 2002 have not been located. A copy of the itemized postcard receipt bearing the international application number, attorney docket number, title of the invention, name of inventor is date-stamped by the USPTO "SEP 05 2002".

The postcard receipt date-stamped 05 September 2002 itemizing transmittal letter concerning a filing under 35 U.S.C. 371, the English translation of International Application No. PCT/FR01/00646 (53 sheets), the cover page of WIPO Publication No. WO 01/66070, Information Disclosure Statement and Form PTO 1449 with documents attached and check in the amount of \$1584.00 constitutes *prima facie* evidence of receipt of these documents. In the instant petition, counsel for applicants certifies that the aforementioned copies were true copies of the documents filed on 05 September 2002. The USPTO date-stamped, itemized postcard receipt also bears the attorney docket number, international application number, title of invention and name of inventor. There is no indication of a preliminary assignment of U.S. serial number.

The evidence of record is sufficient to establish with reasonable certainty that the transmittal letter concerning a filing under 35 U.S.C. 371, the English translation of International Application No. PCT/FR01/00646 (53 sheets), the cover page of WIPO Publication No. WO 01/66070, Information Disclosure Statement and Form PTO 1449 with documents attached were deposited in the PTO on 05 September 2002. Accordingly, it is appropriate to accord the date of receipt of the above mentioned papers a date of 05 September 2002.

CONCLUSION

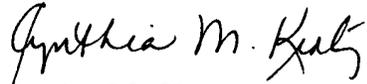
Applicant's petition under 37 CFR 1.181 requesting that a copy of the national stage papers be accorded a receipt date of 05 September 2002 is **GRANTED**. The papers are assigned U.S. application no. 10/333,664.

The application is being returned to the DO/EO/US for processing in accordance with this decision, that is, for accoding the national stage papers a receipt date of **05 September 2002** and issuance of a Notification of Missing Requirements (FORM PCT/DO/EO/905) indicating that an

Application No.:10/333,664

3

oath or declaration, in compliance with 37 CFR 1.497, and the surcharge for filing the oath or declaration after the thirty month period are required.



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8 FEB 2006

John F. Gulbin
Pitney Hardin, LLP
7 Times Square
New York, NY 10036-7311

In re Application of :
SHIMADA, et al. :
Serial No.: 10/333,677 :
PCT No.: PCT/JP01/07845 : DECISION ON PETITION
Int. Filing Date: 10 September 2001 :
Priority Date: 11 September 2000 : UNDER 37 CFR 1.181
Atty Docket No.: 4777-11 :
For: ROUTE GUIDANCE SYSTEM :

This is a decision on applicant's "Petition Under 37 C.F.R. § 1.181 For Withdrawal of Holding of Abandonment" filed on 29 March 2004 in the United States Patent and Trademark Office (USPTO). No petition fee is due.

BACKGROUND

On 10 September 2001, applicant filed international application PCT/JP01/07845, which claimed priority of an earlier application filed 11 September 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 21 March 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was set to expire 30 months from the priority date, 11 March 2003.

On 22 January 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an executed declaration and power of attorney and a preliminary amendment.

On 12 May 2003, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an English translation of the international application. Applicant was afforded two months to file the proper response.

On 23 February 2004, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that applicant had failed to respond to the Form PCT/DO/EO/905 mailed 12 May 2003 within the time period set therein and that above-identified application was abandoned as to the United States.

On 29 March 2004, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The Official Gazette, at 1156 OG 53, provides that a petition requesting relief based on the grounds that an Office action was not received must be accompanied by a statement that (1) the Office action was not received, (2) attests that a search of the file jacket indicates the Office action was not received, (3) attests that a search of counsel's docket records indicates the Office action was not received and (4) the Petition must also be accompanied by copies of the docket records where the non-received Office action would have been entered. (See also, Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

Applicant's petition and accompanying papers filed 29 March 2004 satisfy the items above and it is proper to grant applicant's petition at this time showing that the "Notification of Missing Requirements" mailed 12 May 2003 was never received by applicant. The holding of abandonment in this application is withdrawn.

In addition, applicant has presently filed a change of address in accordance with MPEP 601.03. The USPTO will mail all future correspondence in this application to the new address of record.

CONCLUSION

Applicant's Petition Under 37 CFR 1.181 is **GRANTED**.

The NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) mailed 23 February 2004 is hereby **VACATED**.

This application is being returned to the DO/EO/US for processing in accordance with this decision including the re-issuance of a new "Notification of Missing Requirements" (Form PCT/DO/EO/905).



Derek A. Putonen
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FALLS CHURCH VA 22040-0747

NOV 13 2006

TECHNOLOGY CENTER 3600

In re: Shingo Oda, et al. : Decision on Petition for
Serial No. 10/333,682 : Withdrawal of Finality of
Filed : March 10, 2003 : an Office Action
For: **ELECTRIC INITIATOR AND**
INITIATOR ASSEMBLY USING IT

This is a decision on the petition under 37 CFR 1.181, received on October 12, 2006 for withdrawal of the finality of an Office action.

The applicant's petition is **GRANTED**.

BACKGROUND

In an Office action mailed on June 7, 2004, the examiner required an election of species of an initiator. The two species being identified in Figures 1-2 and Figures 3-4.

In a response filed July 7, 2004, applicant elected the embodiment directed to Figures 1 and 2. Prosecution continued through Final rejection mailed March 29, 2006.

In an amendment after final filed June 29, 2006 applicant amended the claims by changing the "initiator" to an "initiator assembly".

On July 13, 2006 an advisory action was mailed indicating that the claims raised new issues.

Applicant filed a Request for Continued Examination in July 26, 2006.

In a communication mailed on August 23, 2006, the examiner indicated that the pending claims no longer read on the elected embodiment shown in Figures 1 and 2. Accordingly, the examiner withdrew the claims.

Applicant responded by traversing the statement that the amended claims were directed to a non-elected embodiment and added a new claim to be examined.

On September 8, 2006, the examiner mailed a first action final rejection of the newly added claim. In the response to the traversal, the examiner indicated that the amended claims included a feature that was reserved for the species identified in claim 7.

DECISION

The specification and description of the drawings identify the following:

Figures 1 and 2 are directed to one embodiment of initiator.

Figures 3 and 4 are directed to another embodiment of initiator

Figure 7 is directed to the initiator of Figure 1 in combination with its assembly.

The original election was between two initiators shown in Figures 1-4. It has been noted that Figure 7 was not part of the election requirement nor was the combination of an initiator with its assembly subject of restriction from the initiator. Therefore, since applicant elected the initiator of Figure 1, that any claim that includes the initiator of Figure 1 had been constructively elected and must be examined.

The Petition is hereby **GRANTED**.

Applicant further requests that the finality of the office action be withdrawn based on the fact that the previously examined and amended claims after final were considered to raise new issues. In response, this matter is moot since the claims subject to final rejection did not include the changes submitted in the after final amendment. Note that these claims were withdrawn in the final office action.

The final Office action mailed September 6, 2008 is hereby **VACATED**. The application is being returned to the examiner for consideration of claims 1-7, 10-12, 14-19 and 22 on the merits. It is also noted that any rejection made cannot be made final on first action with respect to these claims in light of the comments made in the advisory action mailed on July 13, 2006.

Any questions or comments with respect to this decision should be forwarded to Michael J. Carone at (571) 272-6873.



Donald T. Hajec, Director
Technology Center 3600
(571) 272-5150

snm/mjc:11/10/06

SM



30 JUL 2003

COMMISSIONER FOR PATENTS
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Stacy A. Hegle
Heller, Ehrman, White & McAuliffe, LLP
275 Middlefield Road
Menlo Park, CA 94025-3506

In re Application of	:	
RAMIREZ-VICK	:	
U.S. Application No.: 10/333,697	:	DECISION ON PETITION
PCT No.: PCT/US01/18181	:	
Int. Filing Date: 30 June 2000	:	UNDER 37 CFR 1.137(b)
Priority Date: 30 June 1999	:	
Attorney Docket No.: 25527-0004	:	
For: HYBRIDIZATION OF TARGET DNA WITH	:	
IMMOBILIZED NUCLEIC ACID ANALOGS	:	

The petition to revive under 37 CFR 1.137(b) filed 22 January 2003 in the above-captioned application is hereby **GRANTED** as follows:

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

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

As authorized in the transmittal filed 24 February 2003, the \$65.00 small entity surcharge for filing an oath or declaration of the inventor later than thirty months from the priority date will be charged to Deposit Account No.: 08-1641.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **24 February 2003**.

Derek A. Putonen
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02 MAR 2004

4



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Gerald T. Bodner, Esq.
Bodner & O'Rourke, LLP
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Melville, New York 11747

In re Application of : DECISION ON
Kikuchi et al :
Application No.: 10/333,701 :
PCT No.: PCT/JP01/06469 : PETITION UNDER
Int. Filing Date: 26 July 2001 :
Priority Date: 31 July 2000 : 37 CFR 1.137(b)
Attorney's Docket No.: 362-66 PCT/US :
For: Electronic Camera and Focus Control :
Method :

This decision is in response to applicants' "REPLY NOTICE OF ABANDONMENT UNDER 37 CFR 1.53(f) OR (g)," filed on 22 September 2003. Applicants' Deposit Account No.: 502335 has been charged \$2,230.00 (\$900.00 (Basic National Fee) and \$1,330 (Petition Fee)).

BACKGROUND

On 26 July 2001, this international application was filed, claiming an earliest priority date of 31 July 2000.

A Demand electing the United States was filed in this international application on 21 November 2001. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 31 January 2003.

On 23 January 2003, applicants filed the Transmittal letter for entry into the national stage in the United States, which was accompanied by, executed Declaration but an insufficient basic national fee.

On 13 February 2003, the USPTO mailed applicant Notification of Abandonment (Form PCT/DO/EO/909) indicating the application was abandoned because the reply did not include the full amount of the basic filing fee.

On 22 September 2003, applicants filed the instant petition under 37 CFR 1.137(b) which was accompanied by, the full basic national fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

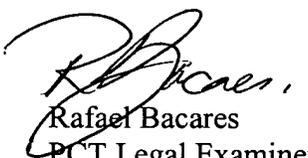
Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **22 September 2003**.


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Facsimile: (703) 308-6459



UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: 1-3-06

rvk
Paper Number: _____

In re application of :
Nasser Beldi et al : DECISION ON
Serial No. 10/333,720 : PETITION
Filed: January 24, 2003 :
For: BARRIER COATING DEPOSITED BY PLASMA COMPRISING
AN INTERFACE LAYER METHOD OF OBTAINING SAID
COATING AND CONTAINER THUS COATED :

This is a response to the PETITION FOR NEW OFFICE ACTION AND WITHDRAWAL OF HOLDING OF ABANDONMENT UNDER MPEP SECTION 711.03(c)(I)(A), filed July 27, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment of July 13, 2005, for failure to timely file a proper response to the Office letter dated December 03, 2004 be withdrawn. The petitioner asserts that the Office letter of December 03, 2004 was not received by applicants.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action. See MPEP 711.03(c)(II).

The evidence presented is sufficient to establish that the Office letter of December 03, 2004 was not received by petitioner. The evidence provided includes a statement by the petitioner that the Office letter of December 03, 2004 was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Office letter of December 03, 2004 was not received. Also provided are a copy of the attorney's docket records for December 06 and 07, 2004 (Attachments A and B), where the Office letter of December 03, 2004 would have been posted had it been timely received; and a copy of the



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attorney's due date docket report for March 03, 2005 (Attachment C) showing all replies docketed for a date three months from the mail date of December 03, 2004 of the non-received Office action. In addition, the applicants filed a Status Inquiry on March 25, 2005, to inquire the status of the instant application.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt remailing of the above noted Office letter to the correspondence address and restarting of the statutory period of response from the remail date thereof.

The Petition is **GRANTED**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

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



21 MAR 2006

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NORRIS, MCLAUGHLIN & MARCUS, P.A.
875 THIRD AVE
18TH FLOOR
NEW YORK NY 10022

In re Application of	:	
LANGE, Horst et al.	:	
Application No.: 10/333,730	:	DECISION ON
PCT No.: PCT/EP01/08698	:	
Int. Filing Date: 27 July 2001	:	PETITION
Priority Date: 27 July 2000	:	
Attorney Docket No.: GE Bayer 1606-WCG	:	UNDER 37 CFR 1.181
For: MONO- OR POLY-QUATERNARY	:	
POLYSILOXANES	:	

This decision is in response to "Petition Under 37 CFR §1.181(a) to Withdraw Holding of Abandonment," filed on 04 January 2005.

BACKGROUND

On 27 July 2001, applicants filed international application PCT/EP01/08698. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 07 February 2002. The deadline for entry into the national stage in the United States was 27 January 2003.

On 24 January 2003, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 16 June 2003, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b), a translation of the application into English, the processing fee for late filing of the translation and the surcharge for late filing of the oath or declaration were required.

On 05 November 2004, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to timely respond to the Notification of Missing Requirements mailed 16 June 2003.

On 04 January 2005, applicants filed a petition to withdraw the holding of abandonment.

On 19 July 2005, applicants submitted a declaration of the inventors and the fee for late filing of the oath or declaration.

DISCUSSION

The showing required to establish nonreceipt of an Office communication is set forth in the notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not Received*, 1156 O.G. 53 (Nov. 16, 1993). The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Items (1), (2) and (3) have been satisfied. Practitioner states that the Notification was not received by the practitioner and that a search of the file jacket and docket records indicates that it was not received. The computerized docket records are for this case alone and do not comply with the petition requirements as they do not indicate all actions that would have been docketed for response on the due date. However, the paper logs appear to indicate all items docketed for response on the due date, not just the items for this application. Further, the Notification is not among them. If this is not correct, applicants must notify the Office immediately.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 16 June 2003 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a new Notification of Missing Requirements indicating that a translation of the application into English and the processing fee for late filing of the translation are required.



Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459



OWENS CORNING
2790 COLUMBUS ROAD
GRANVILLE, OH 43023

MAILED

JAN 08 2010

OFFICE OF PETITIONS

In re Application of :
Akihiro Nishimura :
Application No. 10/333,732 :
Filed: January 27, 2003 :
Attorney Docket No. 25833 :

ON PETITION

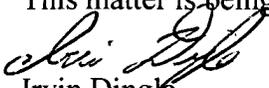
This is a decision on the petition under 37 CFR 1.137(b), filed November 19, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1), mailed April 29, 2009, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on May 30, 2009. See MPEP 1215.04.

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

This matter is being referred to Technology Center AU 1791 for further processing.


Irvin Dingle
Petitions Examiner
Office of Petitions



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2790 COLUMBUS ROAD
GRANVILLE, OH 43023

MAILED

JAN 07 2010

OFFICE OF PETITIONS

In re Application of :
Akihiro Nishimura :
Application No. 10/333,732 :
Filed: January 27, 2003 :
Attorney Docket No. 25833 :
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 November 16, 2009.

The request is **APPROVED**.

A review of the file record indicates that Richard L. Treanor: (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, Richard L. Treanor has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

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


Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Richard L. Treanor
Oblon, Spivak et al
1940 Duke Street
Alexandria, VA 22314



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AUG 05 2009

OFFICE OF PETITIONS

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314-1176

In re Application of :
GEDIG et al. :
Application No. 10/333,737 : DECISION ON PETITION
Filed: 07/15/2003 :
Attorney Docket No. GEDI3001/FJD :

This is a decision on the petition under 37 CFR.1.181, filed March 10, 2009, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to respond in a timely manner to the nonfinal Office action, mailed on June 29, 2007, which set a three-month shortened statutory period for reply. Extensions of this period were available under 37 CFR 1.136(a). On January 17, 2008, the Office mailed a Notice of Abandonment.

Petitioner stated that petitioner filed a reply in the form of an amendment and a request for an extension of time for response within the third month (and fee) on Monday, December 31, 2007. Petitioner submitted a copy of a date-stamped postcard receipt, acknowledging that USPTO had received the reply and a request for an extension of time for response within the third month on December 31, 2007. Furthermore, the reply and the request for an extension of time, filed December 31, 2007, were located among the papers in the Image File Wrapper for the above-identified application.

In view of the above, the reply is considered timely filed on December 31, 2007, with the request for an extension of time for response within the third month (and fee). See 37 CFR 1.8(a) and 1.136(a).

Accordingly, the petition under 37 CFR 1.181 is granted. The holding of abandonment is hereby withdrawn. The application is restored to pending status in view of the fact that petitioner filed a timely response to the nonfinal Office action.

This matter is being referred to Technology Center Art Unit 1794 for further action on the reply filed on December 31, 2007.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the examination procedures should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON, MA 02111

Mail Date: 04/21/2010

Applicant : Risto Kauppinen : DECISION ON REQUEST FOR
Patent Number : 7602762 : RECALCULATION of PATENT
Issue Date : 10/13/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/333,757 : OF WYETH AND NOTICE OF INTENT TO
Filed : 10/07/2003 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **1477** 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.



23 SEP 2003

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Karl J. Kolbinger
Amster, Rothstein & Ebenstein
90 Park Avenue
New York, NY 10016

In re Application of :
MEDVEDEV, Alexander et al. :
Application No.: 10/333,759 :
PCT No.: PCT/US01/08776 :
Int. Filing Date: 19 March 2001 :
Priority Date: 27 March 2000 :
Docket No.: 3600/238 :
For: CHRONIC PERFORMANCE :
CONTROL SYSTEM FOR :
ROTODYNAMIC BLOOD :

DECISION
ON PETITION UNDER
37 CFR 1.137(b)

Applicant's "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 23 January 2003 is **GRANTED**.

Applicant states "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration has not yet been submitted.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision, including the mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration are required.

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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



24 FEB 2003

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COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Karl J. Kolbinger
Amster, Rothstein & Ebenstein
90 Park Avenue
New York, NY 10016

In re Application of
HORVATH, David, et al.
Application No.: 10/333,760
PCT No.: PCT/US01/40329
Int. Filing Date: 19 March 2001
Priority Date: 27 March 2000
Docket No.: 3600/237
For: VENTRICULAR ASSIST SYSTEM
SECONDARY IMPELLER

DECISION
ON PETITION UNDER
37 CFR 1.137(b)

Applicant's "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 23 January 2003 is GRANTED.

Applicant states "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration has not yet been submitted.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision, including the mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration are required.

C. M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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



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OFFICE OF PETITIONS

Morrison & Foerster LLP
1650 Tysons Boulevard
Suite 400
McLean, VA 22102

In re Application of :
Hans-Peter Huth et al. :
Application No. 10/333,773 :
Filed: January 24, 2003 :
Attorney Docket No. 449122050000 :

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 18, 2007.

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

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on September 5, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Bell, Boyd & Lloyd, LLP**
P.O. Box 1135
Chicago, IL 60690



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Pepper Hamilton LLP
400 Berwyn Park
899 Cassatt Road
Berwyn PA 19312-1183

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MAR 03 2010
OFFICE OF PETITIONS

In re Patent No. 7,569,218 : DECISION ON REQUEST
Weiner, et al. : FOR
Issue Date: August 4, 2009 : RECONSIDERATION OF
Application No. 10/333,802 : PATENT TERM ADJUSTMENT
Filed: July 29, 2003 : and
Atty Docket No. UPVG0010-100 : NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on August 7, 2009, and in supplement on January 14, 2010, which are being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred eighty-nine (989) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred eight-nine (989) days is **GRANTED**.

Deposit account 50-0436 will be charged \$200.00 for the fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred eighty-nine (989)** days.

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,569,218 B2

DATED Aug. 4, 2009

INVENTOR(S) : Weiner, 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 (608) days

Delete the phrase "by 608 days" and insert – by 989 days--



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

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MAY 30 2008

OFFICE OF PETITIONS

In re Application of :
Takasaki, et al. : LETTER REGARDING
Application No. 10/333,844 : PATENT TERM ADJUSTMENT
Filed: January 24, 2003 :
Atty. Dkt. No.: 08959.0007 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT-PRE-GRANT," filed March 12, 2008. This matter is being properly treated under 37 CFR 1.705(b) as an application for patent term adjustment.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby GRANTED.

The correct determination of PTA at the time of the mailing of the Notice of Allowance is 677 days.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed December 27, 2007, indicated a patent term adjustment (PTA) to date of 614 days. The instant application for PTA was timely filed March 12, 2008.

Applicants contest the adjustment of 630 days. Applicants do not contest the reduction of 16 days.

A restriction requirement was mailed December 14, 2005. The Office accorded an adjustment of 630 days under 37 CFR 1.702(a)(1) in connection with the mailing of the restriction requirement. However, the non-final Office action mailed February 15, 2006 ^{was} ~~withdrew~~ the restriction requirement. Accordingly, the proper adjustment under 37 CFR 1.702(a)(1) is 693 days, as argued by applicants. The adjustment began March 25, 2004 and ended February 15, 2006.

In view thereof, at the time of allowance, the application is entitled to an adjustment of 677 days (adjustments totaling 693 days less reductions totaling 16 days), as argued by applicants.

Receipt is hereby acknowledged of the required PTA application fee of \$200.00.

Applicants are further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

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

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

Kery A. Fries

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

Enclosure: Adjusted PAIR Calculation

Day : Thursday
Date : 5/29/2008

Time: 12:01:29

PALM INTRANET**PTA Calculations for Application: 10/333844**

Application Filing Date:	01/24/2003	PTO Delay (PTO):	630
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	16
Post-Issue Petitions:	0	Total PTA (days):	677
PTO Delay Adjustment:	63		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
75	05/29/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	63		
64	12/27/2007	MAIL NOTICE OF ALLOWANCE			
63	12/27/2007	ISSUE REVISION COMPLETED			
62	12/27/2007	DOCUMENT VERIFICATION			
61	12/21/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
60	12/21/2007	CASE DOCKETED TO EXAMINER IN GAU			
59	12/21/2007	EXAMINER'S AMENDMENT COMMUNICATION			
58	12/21/2007	NOTICE OF ALLOWABILITY			
56	11/01/2007	DATE FORWARDED TO EXAMINER			
55	10/25/2007	RESPONSE AFTER NON-FINAL ACTION			
54	07/27/2007	MAIL NON-FINAL REJECTION			
53	07/19/2007	MISCELLANEOUS INCOMING LETTER			
52	07/23/2007	NON-FINAL REJECTION			
51	01/12/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
50	01/12/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
49	03/25/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
48	03/25/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
47	05/10/2007	DATE FORWARDED TO EXAMINER			
46	05/03/2007	RCE- AF PROCESSED			
45	05/10/2007	DATE FORWARDED TO EXAMINER			
44	05/03/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		16	36
		DISPOSAL FOR A RCE/CPA/129 (EXPRESS			

43	05/10/2007	ABANDONMENT IF CPA)			
42	05/03/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
41	05/03/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
40	04/13/2007	MAIL ADVISORY ACTION (PTOL - 303)			
39	04/12/2007	ADVISORY ACTION (PTOL-303)			
38	03/23/2007	DATE FORWARDED TO EXAMINER			
37	03/14/2007	AMENDMENT AFTER FINAL REJECTION			
36	01/17/2007	MAIL FINAL REJECTION (PTOL - 326)			
35	01/08/2007	FINAL REJECTION			
34	11/01/2006	DATE FORWARDED TO EXAMINER			
33	10/20/2006	RESPONSE AFTER NON-FINAL ACTION			
32	07/20/2006	MAIL NON-FINAL REJECTION			
31	07/18/2006	NON-FINAL REJECTION			
30	05/15/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	05/15/2006	CERTIFIED TRANSLATION OF FOREIGN PRIORITY DOCUMENT			
28	05/15/2006	CERTIFIED TRANSLATION OF FOREIGN PRIORITY DOCUMENT			
27.7	05/15/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	25
27	05/15/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	05/18/2006	DATE FORWARDED TO EXAMINER			
25	05/15/2006	RESPONSE AFTER NON-FINAL ACTION			
24	04/27/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
23	04/27/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
22	02/15/2006	MAIL NOTICE OF WITHDRAWN ACTION			
21	02/15/2006	MAIL NON-FINAL REJECTION			
20	02/14/2006	NON-FINAL REJECTION			
19	02/14/2006	LETTER WITHDRAWING / VACATING OFFICE ACTION			
18	02/01/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
17	01/31/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
16	12/14/2005	MAIL RESTRICTION REQUIREMENT	630		-1

15	12/12/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
14	11/18/2005	CASE DOCKETED TO EXAMINER IN GAU			
13	06/30/2005	CASE DOCKETED TO EXAMINER IN GAU			
11.7	05/21/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	05/21/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	04/24/2003	PRELIMINARY AMENDMENT			
9	08/13/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
8	07/10/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
7	05/02/2003	CASE DOCKETED TO EXAMINER IN GAU			
6	03/26/2003	APPLICATION DISPATCHED FROM OIPE			
5	03/10/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
4	03/04/2003	NOTICE OF DO/EO ACCEPTANCE MAILED			
3	01/24/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
2	02/20/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
1	01/24/2003	INITIAL EXAM TEAM NN			

Search Another: Application#

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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SEP 28 2009

OFFICE OF PETITIONS

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

In re Patent No. 7,405,051
Issued: July 29, 2008
Application No. 10/333,844
Filed: January 24, 2003
Dkt. No.: 08959.0007

: ON PETITIONS under
: 37 CFR 1.183 and ON REQUEST
: FOR RECONSIDERATION OF
: PATENT TERM ADJUSTMENT
:

This is a decision on the 1) Petition under 37 C.F.R. 1.183, requesting that the Office suspend the rules and consider on the merits a Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued; and on the 2) application for patent term adjustment under 37 C.F.R. § 1.705(d), both filed on January 23, 2009.

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

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

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

BACKGROUND

On July 29, 2008, the above-identified application matured into U.S. Patent No. 7,405,051 with a revised patent term adjustment of 689 days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued. Patentee now petitions under 37 C.F.R. § 1.183 to (i) suspend or waive the requirement of 37 C.F.R. § 1.705(d) that a Request for Reconsideration of Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed DETERMINATION OF PATENT TERM ADJUSTMENT - POST GRANT. Patentee references the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008) as the basis for the petition.

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

The above-referenced patent issued on July 29, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until January 23, 2009. Petitioner requests that the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

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

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

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by September 29, 2008, the date two months from the date this patent issued, July 29, 2008. Rather, on January 23, 2009, after the issuance of a decision in Wyeth v. Dudas on September 30, 2008, petitioner filed the instant request for waiver of the two-month requirement.

37 CFR 1.183 provides that:

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

35 U.S.C. 154, which requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director, authorizes the Director to establish the procedures for requesting such reconsideration. Those procedures¹

¹ 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO

include, pursuant to 37 CFR 1.705(d), setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. The basis for requesting waiver set forth by petitioner is the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008).

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

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

Petitioner could have filed a timely Request for Reconsideration of Patent Term Adjustment, as Wyeth did, but chose not to do so. The fact that the District Court has now issued an Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision. In addition, given that the law only allows 180 days for both the filing of a petition and for the Office's consideration of that petition, petitioner's unexplained delay in filing the petition weighs against them.

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

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

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

The Office provided notice that petitions under 37 CFR 1.182 and 1.183 or requests for certificate of corrections under 35 USC 354 and Sec. 1.323 or 35 U.S.C. 255 and Sec. 1.324 are not substitute *fora* to obtain reconsideration of a patent term adjustment determination indicated in a notice of allowance if applicant fails to submit a request for reconsideration within the time period specified in Sec. 1.705(b) or to obtain reconsideration of a patent term adjustment determination indicated in a patent if a patentee fails to submit a request for reconsideration within the time period specified in Sec. 1.705. See 69 Fed. Reg. 21704, 21707 (April, 22, 2004).

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

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

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

This is a decision on the application for patent term adjustment under 37 CFR 1.705(d), filed January 23, 2009. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to 1,056 days.

On July 29, 2008, the above-identified application matured into U.S. Patent No. 7,405,051 with a revised patent term adjustment of 689 days. The instant request for reconsideration was filed more than two months after the issuance of the patent, on January 23, 2009.

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

CONCLUSION

It is determined that waiver of the requirement pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR

1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

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

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

A handwritten signature in cursive script, appearing to read "Alesia M. Brown".

Alesia M. Brown
Petitions Attorney
Office of Petitions



OGILVY RENAULT LLP
1981 MCGILL COLLEGE AVENUE
SUITE 1600
MONTREAL QC H3A2Y-3 CA CANADA

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OFFICE OF PETITIONS

In re Application of	:	
Jean Nicholson Prudent	:	
Application No. 10/333,845	:	DECISION ON PETITION
Filed: May 16, 2003	:	TO WITHDRAW
Attorney Docket No. 14254-1US	:	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 22, 2005.

The request is **APPROVED**.

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

The request was signed by Nicolas Pellemans, on behalf of all attorneys of record who are associated with customer No. 020988.

All attorneys/agents associated with the Customer Number 020988 have been withdrawn.

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

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 24, 2005.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (571)-272-3213. All other inquiries concerning either the examination or status of application should be directed to the Technology Center.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Conferee: 

cc: Jean Nicholson Prudent
4469 de la Roche
Montreal, Quebec, Canada H2J 3J2

cc : Mr. Jean-Yves Blanchard
REFLEX SYSTEMS INC.
15, avenue Mont-Royal Ouest
Bureau 204
Montreal, Quebec, CANADA H2T 2R9



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OFFICE OF PETITIONS

**PATENT, COPYRIGHT & TRADEMARK LAW GROUP
4199 KINROSS LAKES PARKWAY
SUITE 275
RICHFIELD OH 44286**

In re Patent No. 6,887,812 :
Issue Date: May 03, 2005 :
Application No. 10/333,852 : **DECISION ON PETITION**
Filed: January 23, 2003 :
Attorney Docket No. 03-1221 :

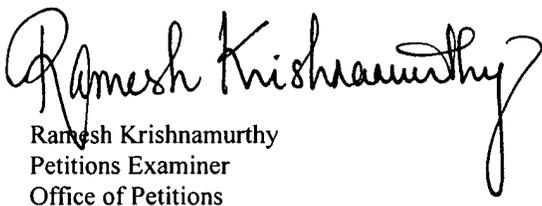
This is a decision on the petition under 37 CFR 1.378(c), filed November 16, 2009, with a certificate of mailing dated November 13, 2009 to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired at midnight on May 03, 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 Tredelle Jackson at (571) 272-2783.


Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/27/06

Paper No.: _____

TO SPE OF : ART UNIT 3733

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/333 859 Patent No.: 7087085 B2

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

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

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

Virginia Tolbert

Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

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

Note your decision on the appropriate box.

Approved

All changes apply.

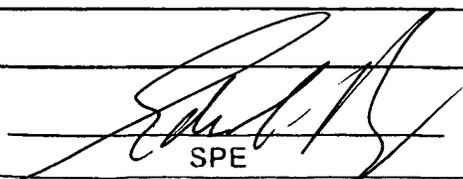
Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments: _____


SPE

3733
Art Unit

19 AUG 2003

#6



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Michael Sanzo
Fitch, Even, Tabin & Flannery
1801 K Street, N.W.
Suite 401L
Washington, D.C. 20006

In re Application of	:	
BELLER et al.	:	DECISION ON
Application No.: 10/333,860	:	PAPERS UNDER 37 CFR 1.42
PCT No.: PCT/EP01/08749	:	
Int. Filing Date: 27 July 2001	:	
Priority Date: 27 July 2000	:	
Attorney Docket No.: 7601/80167	:	
For: NOVEL PHOSPHINE LIGANDS, THEIR	:	
PREPARATION AND THEIR USE IN	:	
CATALYTIC REACTION	:	

This is a response to the declaration filed 25 July 2003 which is being treated as a Petition under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 27 July 2001, applicants filed international application PCT/EP01/08749, which claimed a priority date of 27 July 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 07 February 2002. A Demand was filed with the International Preliminary Examining Authority. As a result, the deadline for payment of the basic national fee was to expire 30 months from the priority date, 27 January 2003.

On 24 January 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a translation of the international application; and a preliminary amendment.

On 28 May 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 25 July 2003, applicants filed a declaration executed by: Matthias Beller; Christa Fuhrmann; and Alexander Zapf as inventors and Wilhelm Hubert Ehrentraut and Theresia Elisabeth Ehrentraut on behalf of deceased inventor, Andreas Ehrentraut.

DISCUSSION

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

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

Section 409.01(a) of the Manual of Patent Examining Procedure (MPEP) states that the application can also be executed by "all of the heirs" of the deceased inventor, where no legal representative has been appointed.

The declaration submitted on 25 July 2003 was executed by Wilhelm Hubert Ehrentraut and Theresia Elisabeth Ehrentraut as "co-beneficiaries" to the deceased inventor, Andreas Ehrentraut. However, the declaration does not state that Wilhelm Hubert Ehrentraut and Theresia Elisabeth Ehrentraut are the sole heirs of the deceased inventor. Absent a statement that the signing heirs are the sole heirs of the deceased inventor, the declaration cannot be accepted under 37 CFR 1.42.

CONCLUSION

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

Applicant is required to provide an oath/declaration in compliance with 37 CFR 1.497(a)-(b) within **TWO (2) MONTH** from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42" and must include an acceptable declaration under 37 CFR 1.497 which has been executed by either the legal representative of the deceased inventor or, if no legal representative has been appointed, all of the heirs of the deceased inventor.

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



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



Michael Sanzo
Fitch, Even, Tabin & Flannery
1801 K Street, N.W.
Suite 401L
Washington, D.C. 20006

In re Application of :
BELLER et al. :
Application No.: 10/333,860 :
PCT No.: PCT/EP01/08749 :
Int. Filing Date: 27 July 2001 :
Priority Date: 27 July 2000 :
Attorney Docket No.: 7601/80167 :
For: NOVEL PHOSPHINE LIGANDS, THEIR
PREPARATION AND THEIR USE IN
CATALYTIC REACTION

DECISION ON
PAPERS UNDER 37 CFR 1.42

This is a response to "Response to Decision Regarding Declaration" filed 29 August 2003 which is being treated as a Renewed Request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 27 July 2001, applicants filed international application PCT/EP01/08749, which claimed a priority date of 27 July 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 07 February 2002. A Demand was filed with the International Preliminary Examining Authority. As a result, the deadline for payment of the basic national fee was to expire 30 months from the priority date, 27 January 2003.

On 24 January 2003, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a translation of the international application; and a preliminary amendment.

On 28 May 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 25 July 2003, applicants filed a declaration executed by: Matthias Beller; Christa Fuhrmann; and Alexander Zapf as inventors and Wilhelm Hubert Ehrentraut and Theresia Elisabeth Ehrentraut on behalf of deceased inventor, Andreas Ehrentraut. In a Decision dated 19 August 2003, the request to accept the declaration under 37 CFR 1.42 was dismissed without prejudice.

On 29 August 2003, applicants filed the present request.

DISCUSSION

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

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

Section 409.01(a) of the Manual of Patent Examining Procedure (MPEP) states that the application can also be executed by "all of the heirs" of the deceased inventor, where no legal representative has been appointed.

As stated in the previous decision, the declaration submitted on 25 July 2003 was executed by Wilhelm Hubert Ehrentraut and Theresia Elisabeth Ehrentraut as "co-beneficiaries" to the deceased inventor, Andreas Ehrentraut. Michael A. Sanzo avers in the 29 August 2003 response that Hubert Ehrentraut and Theresia Elisabeth Ehrentraut are the "sole heirs of the deceased inventor." The declaration is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b).

CONCLUSION

The papers filed under 37 CFR 1.42 are ACCEPTED.

The application has an international filing date of 27 July 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **25 July 2003**.

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



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

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OFFICE OF PETITIONS

In re Application of :
M. Selim UNLU, et al :
Application No. 10/333,864 : **DECISION ON PETITION**
Filed: January 24, 2003 :
Attorney Docket No. BU-060XX :

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

The petition is **GRANTED**.

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

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 23, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (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). 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 May 24, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of \$770; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 1641 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

A handwritten signature in cursive script, appearing to read "April Wise".

April Wise
Petitions Examiner
Office of Petitions

04 SEP 2003

#15



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Norris, McLaughlin & Marcus
220 East 42nd Street - 30th Floor
New York, NY 10017

In re Application of	:	
LANGE et al.	:	
U.S. Application No.: 10/333,865	:	
PCT No.: PCT/EP01/08695	:	DECISION ON PETITION
Int. Filing Date: 27 July 2001	:	UNDER 37 CFR 1.47(a)
Priority Date: 27 July 2000	:	
Attorney Docket No.: GEBAYER1605-WCG	:	
For: POLYSILOXANE POLYMERS, METHOD FOR	:	
THEIR PRODUCTION AND USE THEREOF	:	

This is a decision on applicants' "Response to Notification of Missing Requirements" filed 22 July 2003, which is being treated as a petition under 37 CFR 1.47(a) to accept the application without the signature of joint-inventor, Don Firstenberg. The required petition fee of \$130.00 (37 CFR 1.17(h)) will be charged to Deposit Account no. 14-1263.

BACKGROUND

On 27 July 2001, applicants filed international application PCT/EP01/08695 which claimed a priority date of 27 July 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 07 February 2002. A Demand was filed with the International Preliminary Examining Authority prior to the 19th month from the earliest claimed priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America was extended to expire 30 months from the priority date, i.e., 27 January 2003.

On 22 January 2003, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a preliminary amendment.

On 28 May 2003, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration and a translation of the international application. Furthermore, the Notification indicated that a Sequence Listing had not been filed as required by 37 CFR 1.821(c) and (e). The notification set a two-month time limit in which to respond. PCT/DO/EO/905) indicating that is required.

On 22 July 2003, applicants filed a Petition under 37 CFR 1.47(a) and a English translation of the international application.

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001.00 00

DISCUSSION

A. Sequence Listing

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 28 May 2003 indicated that the nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements set forth in 37 CFR 1. 1.821- 825. Applicants state that the instant application does not contain any nucleotide or amino acid sequences and no sequence listing is required. Applicants' assertion is correct that there is no need to file a sequence listing for the present application. As such, the Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 28 May 2003 is vacated in part.

B. Petition under 37 CFR 1.47(a)

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

Regarding item (2) above, petitioner states that Don Firstenberg has refused to sign the application. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

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

When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

A review of the present petition reveals that petitioner has not shown that a bona fide attempt was made to present the application papers (specification, claims, and drawings) to Don Firstenberg. The "Affidavit" of Kenneth Steven Wheelock states, "I subsequently sent the necessary patent documents to Donald Firstenberg at the address where he had previously received my certified letter using the Federal Express courier and the document were returned to me because Donald Firstenberg refused to accept delivery of the documents." However, no documentary evidence to support the refusal or the attempt was provided with Mr. Wheelock's "Affidavit." As stated above, where a refusal of the inventor to sign the application papers is alleged, a statement of facts is needed from a person having first hand knowledge of the facts that a complete copy of the application papers (specification, claims, and drawings) were sent to Don Firstenberg, and when such papers were sent. In addition, copies of documentary evidence such as a certified mail return receipt, cover letter of instruction, telegrams, etc., should be supplied with the declaration.

Regarding item (3) above, a clear statement of the last known address of the non-signing inventor must be provided. See M.P.E.P. 409.03(e).

For the reasons stated above, it would not be appropriate to accept the application without the signature of Don Firstenberg under 37 CFR 1.47(a) at this time.

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

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



Anthony Smith
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17 MAR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

#7

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Norris, McLaughlin & Marcus
220 East 42nd Street - 30th Floor
New York, NY 10017

In re Application of

LANGE et al.

U.S. Application No.: 10/333,865

PCT No.: PCT/EP01/08695

Int. Filing Date: 27 July 2001

Priority Date: 27 July 2000

Attorney Docket No.: GEBAYER1605-WCG

For: POLYSILOXANE POLYMERS, METHOD
FOR THEIR PRODUCTION AND USE
THEREOF

DECISION ON PETITION
UNDER 37 CFR 1.47(a)

This is a decision on applicants' "Response to Notification of Missing Requirements" filed 12 November 2003, which is being treated as a renewed petition under 37 CFR 1.47(a) to accept the application without the signature of joint-inventor, Don Firstenberg.

The petition for status under 37 CFR 1.47(b) is moot since the declaration filed 12 November 2003 with the present renewed petition was executed by the named inventor, the previous non-signing inventor, Don Firstenberg. The declaration filed 12 November 2003 is acceptable under 37 CFR 1.497.

CONCLUSION

For the reasons above, the renewed petition is **DISMISSED** as **MOOT**. The application need not be returned to this Office for any further consideration of Rule 1.47 status and no such status should be indicated on this application file.

The application has an international filing date of **27 July 2001** under 35 U.S.C. 363 and a date of **12 November 2003** under 35 U.S.C. 371(c).

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.

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08 OCT 2003

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Hogan & Hartson LLP
500 South Grand Avenue, Suite 1900
Los Angeles, CA 90071

In re Application of	:	
YUDA, Akio et al.	:	
Application No.: 10/333,870	:	DECISION
PCT No.: PCT/JP01/06646	:	
Int. Filing Date: 02 August 2001	:	ON PETITION UNDER
Priority Date: 09 August 2000	:	
Docket No.: 89249.0002	:	37 CFR 1.137(b)
For: ACCUMULATOR	:	

Applicant's "Petition Pursuant to 37 C.F.R. §1.137(b)," filed in the above-captioned application on 18 July 2003 is **GRANTED**.

Applicant indicates that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). The appropriate national fee and the petition have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a)-(b) has been submitted. The fee for late filing of the oath or declaration will be charged to deposit account no. 50-1314.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a 35 U.S.C. §371 date of 18 July 2003.

10/10/2003 MKAYPAGH 00000156 501314 10333870

01 FC:1617 130.00 DA

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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24 JUN 2003

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

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St. Louis, MO 63102

In re Application of MOSKOWITZ	:	
U.S. Application No.: 10/333,878	:	
PCT Application No.: PCT/US01/23321	:	DECISION
Int. Filing Date: 25 July 2001	:	
Priority Date Claimed: 25 July 2000	:	
Attorney Docket No.: DZG 2183.2	:	
For: DIAGNOSTIC POLYMORPHISMS FOR	:	
THE eeNOS PROMOTER	:	

This is in response to applicant's "Petition for Filing of Patent Application When Inventor Refuses to Execute Papers Under 35 CFR § 1.47(b)" filed 16 June 2003.

BACKGROUND

On 25 July 2001, applicant filed international application PCT/US01/23321, which claimed priority of an earlier United States application filed 25 July 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 31 January 2002. A Demand for international preliminary examination, in which the United States was elected, was filed on 25 February 2002, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 25 January 2003.

On 24 January 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and the present petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(i), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing

inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. See 37 CFR 1.47(b).

With regard to item (1) above, the requisite fee has been provided.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The present petition states that the sole inventor David Moskowitz refuses to sign the application papers. Although petitioner has presented evidence of Moskowitz' express oral refusal to sign (see affidavit of Lee Henderson, ¶5), petitioner has not sufficiently established that a bona fide attempt was made to present a complete copy of the application papers (including specification, claims, drawings, and oath/declaration) to Moskowitz for signature. Thus, it cannot be concluded at the present time that Moskowitz refuses to join in the application.

With regard to item (3) above, the petition states the last known address of the nonsigning inventor.

With regard to item (4) above, the declaration submitted with the petition is improper. Specifically, although Lee Henderson is permitted to sign a declaration on behalf of David Moskowitz, Dr. Henderson may not sign the name of David Moskowitz.

With regard to item (5) above, the 37 CFR 1.47(b) applicant must prove that, as of the date the application was deposited in the Patent and Trademark Office, (A) the invention has been assigned to the applicant, or (B) the inventor has agreed in writing to assign the invention to the applicant, or (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify filing of the application. MPEP 409.03(f).

In the present case, item (A) above applies. Petition has submitted documentary evidence of a chain of title from the original owner David Moskowitz to the assignee Viral Therapeutics, Inc.

With regard to item (6) above, petitioner has not made any substantial showing that granting of the petition is necessary to preserve the rights of the parties or to prevent irreparable harm.

CONCLUSION

Because petitioner has not satisfied items (2), (4), and (6) above, the petition under 37 CFR 1.47(b) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". No additional petition fee is required.

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



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#7

12 SEP 2003

Edward J. Hejlek
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St. Louis, MO 63102

In re Application of MOSKOWITZ	:	
U.S. Application No.: 10/333,878	:	
PCT Application No.: PCT/US01/23321	:	DECISION
Int. Filing Date: 25 July 2001	:	
Priority Date Claimed: 25 July 2000	:	
Attorney Docket No.: DZG 2183.2	:	
For: DIAGNOSTIC POLYMORPHISMS FOR	:	
THE eeNOS PROMOTER	:	

This is in response to applicant's "Renewed Petition for Filing of Patent Application When Inventor Refuses to Execute Papers Under 35 CFR § 1.47(b)" filed 05 August 2003.

BACKGROUND

On 25 July 2001, applicant filed international application PCT/US01/23321, which claimed priority of an earlier United States application filed 25 July 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 31 January 2002. A Demand for international preliminary examination, in which the United States was elected, was filed on 25 February 2002, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 25 January 2003.

On 24 January 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and a petition under 37 CFR 1.47(b).

On 24 June 2003, this Office mailed a decision dismissing the 24 January 2003 petition.

On 05 August 2003, applicant filed the present renewed petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(i), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. See 37 CFR 1.47(b).

Applicant has previously satisfied items (1), (3), and (5) above.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that David Moskowitz refuses to sign the application papers. Petitioner has sufficiently shown that a bona fide attempt was made to present a copy of the application papers to Moskowitz for signature (see affidavit of Joel Schwarz, ¶2). Furthermore, petitioner has adequately demonstrated Moskowitz refuses to sign. Specifically, Moskowitz made an express oral refusal to execute the application papers during a telephone conversation with Lee Henderson (see Henderson's affidavit, ¶5). Therefore, it would be reasonable to conclude that Moskowitz refuses to join in the application.

With regard to item (4) above, the declaration submitted with the renewed petition is improper. Specifically, Lee Henderson is improperly listed as the inventor.

With regard to item (6) above, petitioner has made an adequate showing that granting of the petition is necessary to preserve the rights of the parties or to prevent irreparable harm.

CONCLUSION

Because petitioner has not satisfied item (4) above, the renewed petition under 37 CFR 1.47(b) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". No additional petition fee is required.

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



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06 MAY 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

#9

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St. Louis, MO 63102

In re Application of MOSKOWITZ	:	
U.S. Application No.: 10/333,878	:	
PCT Application No.: PCT/US01/23321	:	DECISION
Int. Filing Date: 25 July 2001	:	
Priority Date Claimed: 25 July 2000	:	
Attorney Docket No.: DZG 2183.2	:	
For: DIAGNOSTIC POLYMORPHISMS FOR	:	
THE eeNOS PROMOTER	:	

This is in response to applicant's "Renewed Petition Under 35 CFR § 1.47(b)" filed 05 May 2004.

BACKGROUND

On 25 July 2001, applicant filed international application PCT/US01/23321, which claimed priority of an earlier United States application filed 25 July 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 31 January 2002. A Demand for international preliminary examination, in which the United States was elected, was filed on 25 February 2002, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 25 January 2003.

On 24 January 2003, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and a petition under 37 CFR 1.47(b).

On 24 June 2003, this Office mailed a decision dismissing the 24 January 2003 petition.

On 05 August 2003, applicant filed a renewed petition under 37 CFR 1.47(b).

On 17 December 2003, applicant purportedly filed a renewed petition under 37 CFR 1.47(b).

On 05 May 2004, applicant filed a copy of the 17 December 2003 petition.

DISCUSSION

The evidence of record is sufficient to establish that the renewed petition was originally filed on 17 December 2003. Specifically, the copy of the return postcard, which includes the renewed petition in its itemized contents and which bears a USPTO date stamp of 17 December 2003, serves as *prima facie* evidence that the renewed petition was received by the USPTO on 17 December 2003.

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(i), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. See 37 CFR 1.47(b).

Applicant has previously satisfied items (1), (2), (3), (5), and (6) above.

With regard to item (4) above, an appropriate declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor has been submitted.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(b) is GRANTED.

This application has an international filing date of 25 July 2001 and a date under 35 U.S.C. 371(c) of 17 December 2003.

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

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



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06 MAY 2004

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David Moskowitz
518 Bonhomme Woods Drive
St. Louis, MO 63132

In re Application of MOSKOWITZ
U.S. Application No.: 10/333,878
PCT Application No.: PCT/US01/23321
Int. Filing Date: 25 July 2001
Priority Date Claimed: 25 July 2000
For: DIAGNOSTIC POLYMORPHISMS FOR
THE eeNOS PROMOTER

Dear David Moskowitz:

You are named as the inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. Should a patent be granted, you will be designated as the inventor.

As the named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost set forth in 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you choose 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.

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St. Louis, MO 63102

Attorney Docket No.: DZG 2183.2



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OFFICE OF PETITIONS

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

In re Application of :
Regis Le Couedic, et al. :
Application No. 10/333,881 :
Filed: January 24, 2003 :
Attorney Docket No. 11123.58USWO :
: DECISION ON PETITION
: TO WITHDRAW
: FROM RECORD
:

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

The request is **APPROVED**.

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

The request was signed by Sarah M. Monfeldt on behalf of herself.

All other attorneys/agents associated with this application remain of record.

The correspondence address of record remains unchanged.

There is an outstanding Office action mailed July 17, 2007 that requires a reply by the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

24 SEP 2003



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Robert P Renke
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In re Application of
RAM GOKAL :
Application No.: 10/333,883 : DECISION ON
PCT No.: PCT/GB00/02866 : PETITION
Int. Filing Date: 24 July 2000 :
Priority Date: None : UNDER 37 CFR 1.47(b)
Attorney's Docket No.: GKNG 1137 PCT :
For: VEHICLE DRIVE :

This is a decision on Applicant's Response to Notification of Missing Requirements under 35 U.S.C. 371, treated as a petition under 37 CFR 1.47(b), filed 18 July 2003 to permit petitioner (applicant) to file the above-captioned application on behalf of the non-signing sole inventor, Ram Gokal. Petitioner requests a one month extension of time, which is granted.

BACKGROUND

On 24 July 2000, applicant filed international application No. PCT/GB00/02866 which claimed no priority, and which designated the United States. A copy of the international application was communicated to the United States by the International Bureau on 31 January 2002.

On 13 February 2002, a Demand was filed with the International Preliminary Examining Authority electing the United States. As a result, the deadline for submission of a copy of the international application (unless previously communicated by the International Bureau) and payment of the basic national fee was to expire 30 months from the priority date, at midnight 24 January 2003.

On 24 January 2003, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, basic national filing fee.

On 16 April 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS indicating that the oath or declaration of the inventor and surcharge for filing the oath or declaration after the thirty month period must be furnished within two months from the mail date of the notice or the application would be abandoned. Extensions of time were available.

On 18 July 2003, petitioner filed the instant petition requesting that the above-identified application be accepted under the provisions of 37 CFR 1.47(b). The petition was accompanied by a Statement of Facts under 37 CFR 1.47 of Graham Marshall Dodd, based upon his first hand knowledge, regarding inventor Gokal's refusal to sign the application. The combined declaration

and power of attorney submitted was not executed under 37 CFR 1.47(b), on behalf of the non-signing inventor. Petitioner also submitted the Statement of M.J. Harris on behalf of the Non-signing inventor Establishing Proprietary Interest, with a copy of the employment offer accepted and signed by Ram Gokal.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the requisite petition fee, (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Petitioner has satisfied items (1), (3) and (6).

With regard to item (2), petitioner has provided adequate proof that the sole inventor refuses to sign the application with a first hand statement of Graham Marshall Dodd. Specifically, Mr. Dodd states that on 29 May 2003, he mailed a copy of the entire patent application (specification, claims, drawings and a declaration and power of attorney) to Mr. Gokal via Royal Mail recorded delivery service. On telephone inquiry on 09 June 2003, the Royal Mail postal service advised they had attempted delivery, that the letter was undeliverable and that a notification of attempted delivery was left at the last known address. Mr. Dodd's further efforts include a search of the current telephone directory of Wolverhampton for any person with the last name "R Gokal" in the area without success. Mr. Dodd also contacted the Human Resources Department at GKN Automotive GmbH (the parent company of the applicant, GKN Technology Limited) to obtain a last known e-mail address for Mr. Gokal. On 27 May 2003, an e-mail, sent to Mr. Gokal, "was deleted without being read." This is sufficient evidence of the inventor's refusal to sign the application and satisfies item (2) above.

As for item (4), petitioner has not provided a Combined Declaration and Power of Attorney executed on behalf of the sole inventor Ram Gokal. As stated, in pertinent part, in the MPEP §409.03(b):

The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP § 324.... Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).

(Emphasis added.)

Item (4) is not satisfied.

Regarding item (5), Section 409.03(f) of the MPEP, **Proof of Proprietary Interest**, states, in part:

When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that, as of the date the application is deposited in the Patent and Trademark Office,

- (A) the invention has been assigned to the applicant, or
- (B) the inventor has agreed in writing to assign the invention to the applicant, or
- (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.

....

When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by a statement of facts by someone with first hand knowledge of the circumstances in which those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by the affidavit or declaration of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.

If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter.

A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

(Emphasis added.)

Here, petitioner is attempting to prove that the 37 CFR 1.47(b) applicant (GKN Technology Limited) has sufficient proprietary interest in the subject matter to justify filing the application. The employment offer, signed by Mr. Gokal, does not reference the Terms and Conditions of Employment attached to the petition. Thus, the evidence provided does not establish that the Terms and Conditions of Employment were acknowledged by Mr. Gokal or presented to and agreed to by him.

Petitioner *has not* established by a statement of facts by someone with first hand knowledge that the employee (non-signing inventor) agreed to assign to his employer (the 37 CFR 1.47(b) applicant, GKN Technology Limited) all inventions made during employment and that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.

Furthermore, where there is no written agreement to assign or the invention has not been assigned, petitioner must demonstrate a proprietary interest by an appropriate legal memorandum. Petitioner has not provided such memorandum. See MPEP §409.03(f) set forth above for an explanation of what is required. Item (5) is not satisfied.

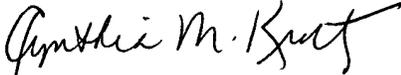
Accordingly, items (4) and (5) above have not been satisfied and the petition under 37 CFR 1.47(b) must be dismissed.

CONCLUSION

The petition under 37 CFR 1.47(b) is **DISMISSED WITHOUT PREJUDICE**.

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

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



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06 FEB 2004

#2



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In re Application of :
RAM GOKAL : DECISION ON
Application No.: 10/333,883 :
PCT No.: PCT/GB00/02866 : RENEWED PETITION
Int. Filing Date: 24 July 2000 :
Priority Date: None : UNDER 37 CFR 1.47(b)
Attorney's Docket No.: GKN 1137 PCT :
For: VEHICLE DRIVE :

This is a decision on Applicant's "Renewed Petition under 37 CFR 1.47(b)", filed 17 November 2003 to permit petitioner (applicant) to file the above-captioned application on behalf of the non-signing sole inventor, Ram Gokal.

BACKGROUND

On 18 July 2003, petitioner filed a petition requesting that the above-identified application be accepted under the provisions of 37 CFR 1.47(b). The petition was accompanied by a Statement of Facts under 37 CFR 1.47 of Graham Marshall Dodd, based upon his first hand knowledge, regarding inventor Gokal's refusal to sign the application. The combined declaration and power of attorney submitted was not executed under 37 CFR 1.47(b), on behalf of the non-signing inventor. Petitioner also submitted the Statement of M. J. Harris on behalf of the Non-signing inventor Establishing Proprietary Interest, with a copy of the employment offer accepted and signed by Ram Gokal.

On 24 September 2003, a decision dismissing the petition was mailed to applicant indicating that (1) Petitioner had not provided a Combined Declaration and Power of Attorney executed on behalf of the sole inventor Ram Gokal, and (2) Petitioner had not established by a statement of facts by someone with first hand knowledge that the employee (non-signing inventor) agreed to assign to his employer (the 37 CFR 1.47(b) applicant, GKN Technology Limited) all inventions made during employment and that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.

On 17 November 2003, applicant filed a renewed petition accompanied by statement of M.J. Harris on behalf of the Non-signing inventor to establish proprietary interest and a declaration executed by Mr. Harris.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the requisite petition fee, (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Petitioner has previously satisfied items (1), (2), (3) and (6).

Regarding item (4), as stated, in pertinent part, in the MPEP §409.03(b):

The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person...to sign the application oath or declaration on its behalf.. Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).

(emphasis added).

Where the oath or declaration is being signed on behalf of an assignee, the submission may be signed by a person in the organization having apparent authority to sign on behalf of the corporation. An officer (chief executive officer, president, vice-president, secretary or treasurer) is presumed to have authority to sign on behalf of the organization. A person having a title (manager, director, 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. See 37 CFR 3.73(b)(2)(ii) and MPEP §324.

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. See 37 CFR 3.73(b)(2)(i). Or the submission may be signed by any 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 provided for the record.

Here, Petitioner has submitted a declaration executed by M.J. Harris, on behalf of the non-signing inventor, Ram Gokal. Mr. Harris' statement indicates that he is "authorized by GKN Technology Limited to sign patent papers." Mr. Harris' statement that he has authority to sign "patent papers" is vague; this may mean that he can prepare and sign applications on behalf of the corporation. The title of patent manager does not set forth that Mr. Harris is an officer of the assignee and thus, he is not presumed to have authority to sign the submission on behalf of the corporation. Nor has a corporate resolution delegating authority to Mr. Harris to sign on behalf of the corporation been provided. Furthermore, the declaration does not state the title or position of the person signing on behalf of the corporation and does not set 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. Item (4) is not satisfied.

Regarding item (5), petitioner is attempting to prove that the 37 CFR 1.47(b) applicant (GKN Technology Limited) has sufficient proprietary interest in the subject matter to justify filing the application. GKN Technology Limited's employment offer, signed by Mr. Gokal, and the Terms and Conditions of Employment, were attached to the statement of M.J. Harris. Petitioner has established by a statement of facts by Mr. Harris, based upon his first hand knowledge, that Mr. Gokal (GKN Technology's employee and the non-signing inventor) agreed to assign to his employer (the 37 CFR 1.47(b) applicant, GKN Technology Limited) all inventions made during employment and that the invention at issue was made by the employee while employed by the 37 CFR 1.47(b) applicant. Item (5) is satisfied.

Accordingly, item (4) above has not been satisfied and the petition under 37 CFR 1.47(b)

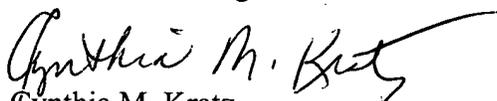
must be dismissed.

CONCLUSION

The petition under 37 CFR 1.47(b) is **DISMISSED WITHOUT PREJUDICE**.

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

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


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16 JUN 2004

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In re Application of :
RAM GOKAL : DECISION ON
Application No.: 10/333,883 :
PCT No.: PCT/GB00/02866 : RENEWED PETITION
Int. Filing Date: 24 July 2000 :
Priority Date: None : UNDER 37 CFR 1.47(b)
Attorney's Docket No.: GKNG 1137 PCT :
For: VEHICLE DRIVE :

This is a decision on Applicant's "Renewed Petition under 37 CFR 1.47(b)", filed 06 May 2004 to permit petitioner (applicant) to file the above-captioned application on behalf of the non-signing sole inventor, Ram Gokal. Applicant also requests a one month extension of time, which is granted.

BACKGROUND

On 18 July 2003, petitioner filed a petition requesting that the above-identified application be accepted under the provisions of 37 CFR 1.47(b). The petition was accompanied by a Statement of Facts under 37 CFR 1.47 of Graham Marshall Dodd, based upon his first hand knowledge, regarding inventor Gokal's refusal to sign the application. The combined declaration and power of attorney submitted was not executed under 37 CFR 1.47(b), on behalf of the non-signing inventor. Petitioner also submitted the Statement of M. J. Harris on behalf of the Non-signing inventor Establishing Proprietary Interest, with a copy of the employment offer accepted and signed by Ram Gokal.

On 24 September 2003, a decision dismissing the petition was mailed to applicant indicating that (1) Petitioner had not provided a Combined Declaration and Power of Attorney executed on behalf of the sole inventor Ram Gokal, and (2) Petitioner had not established by a statement of facts by someone with first hand knowledge that the employee (non-signing inventor) agreed to assign to his employer (the 37 CFR 1.47(b) applicant, GKN Technology Limited) all inventions made during employment and that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.

On 17 November 2003, applicant filed a renewed petition accompanied by statement of M. J. Harris on behalf of the Non-signing inventor to establish proprietary interest and a declaration executed by Mr. Harris. On 06 February 2004, a decision dismissing applicant's renewed petition was mailed, indicating that M. J. Harris' authority to sign on behalf of GKN Technology Limited was not provided. On 06 May 2004, applicant filed a response to the decision.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the requisite petition fee, (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing

inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Petitioner has previously satisfied items (1), (2), (3), (5) and (6).

With his renewed petition applicant filed a declaration executed by M. J. Harris, Patent Manager of GKN Technology Limited, on behalf of the non-signing inventor Ram Gokal, the "Statement of M. J. Harris on Behalf of Non-Signing Inventor Establishing Proprietary Interest" dated 19 April 2004 and a Power of Attorney to M. J. Harris on behalf of GKN Technology Limited, signed by Jonathan C. Soar, Director and Chris Wood, Secretary of GKN Technology Limited. In his statement, Mr. Harris' states that he "is authorized by GKN Technology Limited to sign the Declaration and Power of Attorney for the non-signing inventor, Ram Gokal on behalf of GKN Technology Limited."

Furthermore, applicant has now provided a Power of Attorney from GKN Technology Limited appointing M. J. Harris to sign on its behalf "all correspondence and official forms, including but not limited to powers of attorney, relating to the application for and grant of patents, utility models and registered designs and the maintenance and abandonment of patents, patent applications, utility models and utility model applications, registered designs and registered design applications." Thus, M. J. Harris is presumed to have authority to sign the submission on behalf of the corporation.

Finally, the declaration submitted on 06 May 2004 states the title of M. J. Harris as Patent Manager for GKN Technology Limited, the person signing on behalf of the corporation and sets forth his authorization to act on behalf of the assignee, i.e., to sign the submission on behalf of the assignee. Item (4) is now satisfied.

Accordingly, item (4) above has been satisfied and the petition under 37 CFR 1.47(b) is granted.

CONCLUSION

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

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the non-signing inventor at the last known address of record as set forth in the papers filed 15 April 2003, and a notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

Applicant has completed the requirements for acceptance under 35 U.S.C. § 371(c)(1), (c)(2) and (c)(4). The application has an international filing date of 24 July 2000 under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of **06 May 2004**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.



Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

16 JUN 2004



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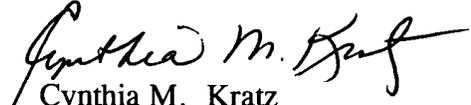
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WOLVERHAMPTON
WEST MIDLANDS WV4 5HH
GREAT BRITAIN

In re Application of
RAM GOKAL :
Application No.: 10/333,883 : DECISION ON
PCT No.: PCT/GB00/02866 :
Int. Filing Date: 24 July 2000 : RENEWED PETITION
Priority Date: None :
Attorney's Docket No.: GKNG 1137 PCT : UNDER 37 CFR 1.47(b)
For: VEHICLE DRIVE :

Dear Mr. Gokal:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

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


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Mailed: 3-5-07

In re application of

Hong Huang et al.

Serial No. 10/333,890

Filed: January 23, 2003

For: ELECTROCHEMICAL ELEMENT AND PROCESS FOR :
ITS PRODUCTION :

DECISION ON
PETITION

This is in response to "Request for Review" of the final rejection filed July 13, 2006 which is being considered as a PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed February 15, 2006.

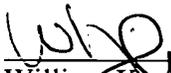
DECISION

Rule 1.181, Section (f) states:

§ 1.181 Petition to the Commissioner.

(f) Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable

The instant petition was filed five months after the final rejection was mailed. Also, no previous request has been made to withdrawn the finality of the office action. This is clearly not a timely filed petition. Accordingly, the instant petition is **DISMISSED.**



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JUL 19 2007

OFFICE OF PETITIONS

In re Application of :
Huang et al. :
Application No.: 10/333890 :
Filing or 371(c) Date: 01/24/2003 : ON PETITION
Attorney Docket Number: TS9257 US :

This is a decision on the Petition for Revival of Application for patent Abandoned Unavoidably, filed April 23, 2007. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed February 15, 2006. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed a reply on June 19, 2006, however, the reply failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed July 3, 2006. The Advisory Action also stated that "[t]he period for reply expires 4 months from the mailing date of the final rejection. No timely and proper reply having been received, the application became abandoned on June 16, 2006. A Notice of Abandonment was mailed March 12, 2007.

Applicant subsequently filed, *inter alia*, a Notice of Appeal and a "Request for Review" on July 13, 2007. In the Request for Review, "Applicant requests review of the final rejection in the above-identified application." Request for Review at p.1.

The Request for Review of the final rejection was treated as a petition to withdraw the finality of the Office action under 37 CFR 1.181, and was dismissed as untimely in a Decision mailed March 5, 2007.

The present petition

Applicant files the present petition and asserts that this office incorrectly abandoned the case. Applicant avers that the Request for Review did not request withdrawal of the finality of the Office action, nor did it use the word petition, and Applicants did not pay a petition fee. Applicant asserts that it is clear that the Request for Review is a pre-appeal brief request for review.

Applicable Law, Rules and MPEP

Abandonment of the Application

37 CFR § 1.135, Abandonment for failure to reply within time period, provides

- (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.

In this instance, a final Office action was mailed February 15, 2007. Applicant filed a reply on June 19, 2006, however, the reply failed to place the application in condition for allowance. The Examiner re-set the reply period in the Advisory action, stating that “[t]he period for reply expires 4 months from the mailing date of the final rejection”, or June 15, 2006. Applicant failed to file a “complete and proper reply as the condition of the application may require.” 37 CFR 1.135. As such, the application became abandoned June 16, 2006.

The MPEP provides that “[a]bandonment 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).

MPEP 711.03(c)(I)

Accordingly, the application was abandoned when Applicant filed the Notice of Appeal and "Request for Review".

The MPEP further provides that

[a] petition to revive an abandoned application (discussed below) should not be confused with a petition from an examiner's holding of abandonment. Where an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

MPEP 711.03(c)(I)(A)

This section explains that where an Applicant files correspondence wherein Applicant requests review of the final rejection (contends that the application is not in fact abandoned) and disagrees with the Examiner as to the sufficiency of the reply (Amendment) filed (July 3, 2007), a petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment is the appropriate course of action. The section also notes that "such petition does not require a fee." Id.

The Office, therefore, correctly holds the case abandoned, and correctly treated the "Request for Review" as a petition to withdraw the holding of abandonment (no fee) under 37 CFR 1.181.

The Notice of Abandonment is mailed as a courtesy by this Office, and does not affect the status of the case.

Petition Under 37 CFR 1.137(a)

Applicant files the present petition and asserts that the entire delay in filing the required reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

Applicable Law, Rules and MPEP

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (2) the petition fee as set forth in 37

CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

Applicant lacks item (3) as set forth above.

As to item (3), Applicant must provide 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 37 CFR 1.137(a) was unavoidable. In order to determine whether the delay was unavoidable, the courts have adopted a “reasonably prudent person” standard. The courts have provided that:

[t]he 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 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).

“The critical phrase ‘unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable’ has remained unchanged since first enacted in 1861.” Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for “unavoidable” delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F.3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1787 (Fed. Cir. 1995) (citing In re patent No. 4,409,763, 7 U.S.P.Q.2d (BNA) 1798, 1800 (Comm’r Pat. 1990; Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982)). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which “requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business.” In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm’r Pat. 31, 32-33 (1887)). However,

“The question of whether an applicant’s delay in prosecuting an application was unavoidable [will] be decided on a case-by-case basis, taking all of the facts and circumstances into account.”¹ Nonawareness of the content of, or a misunderstanding of, PTO statutes, PTO rules, the MPEP, or Official Gazette notices, does not constitute unavoidable delay.²

The statute requires a “showing” by petitioner. Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to “show” that the delay was unavoidable.

Analysis

Applicant here asserts that the delay in responding to the Office action was unavoidable; however, Applicant has failed to demonstrate that the failure to file a complete and proper reply to the final office action was unavoidable.

Conclusion

Applicant has failed to demonstrate that a complete and proper reply was timely filed, and that the failure to timely and properly reply to the Office action was unavoidable.

A review of Office records reveals that Applicant was inadvertently charged the fee for a petition under 37 CFR 1.137(b), \$1,500.00. The fee for a petition under 37 CFR 1.137(a) is \$500. A refund of the difference has been credited to Applicant’s deposit account.

Alternate venue

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an “unintentionally” abandoned application without a showing that the delay in was “unavoidable.” An “unintentional” petition under 37 CFR 1.137(b) must be accompanied by the required fee.

¹ Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

² See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel’s nonawareness of PTO rules does not constitute “unavoidable” delay); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel’s actions, or **their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

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

By mail: Director 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



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Commissioner for Patents
United States Patent and Trademark Office
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Houston, TX 77252-2463

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NOV 28 2007

OFFICE OF PETITIONS

In re Application of :
Huang et al. :
Application No.: 10/333890 :
Filing or 371(c) Date: 01/24/2003 : ON PETITION
Attorney Docket Number: TS9257 US :

This is a decision on the petition under 37 CFR 1.137(b), filed August 16, 2007, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed February 15, 2006. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed a reply on June 19, 2006, however, the reply failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed July 3, 2006. The Advisory Action also stated that "[t]he period for reply expires 4 months from the mailing date of the final rejection. No timely and proper reply having been received, the application became abandoned on June 16, 2006. A Notice of Abandonment was mailed March 12, 2007.

Applicant subsequently filed, *inter alia*, a Notice of Appeal and a "Request for Review" on July 13, 2007. In the Request for Review, "Applicant requests review of the final rejection in the above-identified application." Request for Review at p.1.

The Request for Review of the final rejection was treated as a petition to withdraw the finality of the Office action under 37 CFR 1.181, and was dismissed as untimely in a Decision mailed March 5, 2007.

The April 23, 2007 petition and decision on petition

Applicant filed a petition to revive the application under 37 CFR 1.137(a) on April 23, 2007, wherein Applicant asserted that this Office incorrectly abandoned the case. Applicant averred that the Request for Review did not request withdrawal of the finality of the Office action, nor did it use the word petition, and Applicants did not pay a petition fee. Applicant asserted that it was clear that the Request for Review was a pre-appeal brief request for review.

The petition was dismissed in a Decision mailed July 19, 2007, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(a). The Decision noted that the "Request for Review" was correctly treated as a petition to withdraw the holding of abandonment (no fee) under 37 CFR 1.181.

The present petition

Petitioner files the present petition and a reply in the form of the Request for Pre-Appeal Conference and Notice of Appeal previously filed on July 13, 2006.

Applicable law, Rules and MPEP

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply¹, 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

¹ If the time for filing a brief has passed and the application has consequently become abandoned, the applicant may petition to revive the application under 37 CFR 1.137, as in other cases of abandonment. See MPEP § 711.03(c). If the appeal is dismissed, but the application is not abandoned because there is at least one allowed claim, the applicant may file a petition to reinstate the claims and the appeal, but a showing equivalent to that in a petition to revive under 37 CFR 1.137 is required. See MPEP § 711.03(c). In addition to the petition and petition fee, appellant must file:

(A) A request for continued examination (RCE) under 37 CFR 1.114 accompanied by a submission (i.e., a reply under 37 CFR 1.111) and the fee as set forth in 37 CFR 1.17(e) if the application is a utility or plant application filed on or after June 8, 1995, or a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is a design application); or

(B) An appeal brief and the appeal brief fee to reinstate the appeal. A proper brief and the required fee must be filed before the petition will be considered on its merits.

a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

Opinion

As to item (1), and as stated in the Decision on Petition mailed July 19, 2007, the "Request for Review," filed July 13, 2006 was properly treated as a petition under 37 CFR 1.181. See, the New Pre Appeal Brief Conference Pilot Program, 1296 OG 67 (12 July 2005)².

Applicant failed to file a Pre-Appeal Brief Request for Review. Applicant also failed to file an appeal brief after filing a Notice of Appeal. The application is abandoned. A proper reply must be either 1) a request for continued examination (RCE) under 37 CFR 1.114 accompanied by a submission (i.e., a reply under 37 CFR 1.111) and the fee as set forth in 37 CFR 1.17(e), or 2) an appeal brief and the appeal brief fee to reinstate the appeal. A proper brief and the required fee must be filed before the petition will be considered on its merits.

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

By mail: Director 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 petition Decision should be directed to the undersigned at (571) 272-3232.


Derek L. Woods
Attorney
Office of Petitions

² The content of a request for a pre-appeal brief conference must include, *inter alia*, the title "Pre-Appeal Brief Request for Review".



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MAR 07 2008

In re Application of :
Huang et al. : **OFFICE OF PETITIONS**
Application No.: 10/333890 :
Filing or 371(c) Date: 01/24/2003 : **ON PETITION**
Attorney Docket Number: TS9257 US :

This is a decision on the petition under 37 CFR 1.137(b), filed August 16, 2007, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed February 15, 2006. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed a reply on June 19, 2006, however, the reply failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed July 3, 2006. The Advisory Action also stated that “[t]he period for reply expires 4 months from the mailing date of the final rejection. No timely and proper reply having been received, the application became abandoned on June 16, 2006. A Notice of Abandonment was mailed March 12, 2007.

Applicant subsequently filed, *inter alia*, a Notice of Appeal and a “Request for Review” on July 13, 2007. In the Request for Review, “Applicant requests review of the final rejection in the above-identified application.” Request for Review at p.1.

The Request for Review of the final rejection was treated as a petition to withdraw the finality of the Office action under 37 CFR 1.181, and was dismissed as untimely in a Decision mailed March 5, 2007.

The April 23, 2007 petition and Decision on Petition

Applicant filed a petition to revive the application under 37 CFR 1.137(a) on April 23, 2007, wherein Applicant asserted that this Office incorrectly abandoned the case. Applicant averred that the Request for Review did not request withdrawal of the finality of the Office action, nor did it use the word petition, and Applicants did not pay a petition fee. Applicant asserted that it was clear that the Request for Review was a pre-appeal brief request for review.

The petition was dismissed in a Decision mailed July 19, 2007, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(a). The Decision noted that the "Request for Review" was correctly treated as a petition to withdraw the holding of abandonment (no fee) under 37 CFR 1.181.

The August 13, 2007 petition and Decision on Petition

Petitioner filed a petition to revive the application on August 13, 2007, and a reply in the form of the Request for Pre-Appeal Conference and Notice of Appeal previously filed on July 13, 2006. The petition was dismissed in a Decision mailed November 28, 2007, for failing to file a proper reply.

The present renewed petition

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

The power of Attorney and Correspondence Address Change have been entered and made of record.

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

This application is being referred to Technology Center AU 1745 for processing of the RCE, and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.


Derek L. Woods

Attorney
Office of Petitions



17 SEP 2003

Edward J. Hejlek
Senniger, Powers, Leavitt & Roedel
One Metropolitan Square, 16th Floor
St. Louis, Missouri 63102

In re Application of	:	
MOSKOWITZ, David W.	:	
Application No. 10/333,892	:	
PCT No.: PCT/US01/23368	:	DECISION ON PETITION
Int. Filing Date: 25 July 2001	:	UNDER 37 CFR 1.47(b)
Priority Date: 25 July 2000	:	
Attorney Docket No.: DZG2185.2	:	
For: DIAGNOSTIC POLYMORPHISMS FOR	:	
THE TGF-BETA1 PROMOTER	:	

This is a decision on applicant's "Petition for Filing of Patent Application When Inventor Refuses to Execute Papers under 37 C.F.R. 1.47(b)" filed 05 August 2003 to accept the application without the signature of inventor, David Moskowitz.

BACKGROUND

On 10 January 2001, applicant filed international application PCT/US01/23368 which claimed a priority date of 25 July 2000. A Demand was filed with the International Preliminary Examination prior to the 19th month from the earliest claimed priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America was extended to expire 30 months from the priority date, 25 January 2003.

On 24 January 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of international application; and unexecuted declaration.

On 25 June 2003, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed. The notification set a two-month time limit in which to respond.

On 05 August 2003, applicant filed the present petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(i); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. The 37 CFR 1.47(b) applicant has satisfied the requirements of item (1) through (4) and (6) above. However, item (5) has not been satisfied.

Concerning Item (5), section 409.03(f) of the M.P.E.P., **Proof of Proprietary Interest**, states, in part:

When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that, as of the date the application is deposited in the Patent and Trademark Office, (1) the invention has been assigned to the applicant, or (2) the inventor has agreed in writing to assign the invention to the applicant, or (3) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.

If the application assigned, a copy of the assignment (in the English Language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant prior to the date the application is deposited in the Patent and Trademark Office. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324) . . .

When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by affidavit or declaration that those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by the affidavit or declaration of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.

If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter.

A proprietary interest obtained otherwise than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

As to item 5, petitioner has not submitted sufficient evidence that the inventor assigned the instant application to DZGenes, Inc. Specifically, the assignment submitted by petitioner is directed to U.S. Provisional Serial No. 60/220,583. As stated in MPEP section 306, “[i]n the cases of a substitute or continuation-in-part, a prior assignment of the original application is not applied to the substitute or continuation-in-part application because the assignment recorded against the original application gives the assignee rights to only the subject matter common to both applications. Substitute or continuation-in-part application require a new assignment if they are to be issued to an assignee.” Additionally, petitioner has not stated that the priority document and the instant application are identical. As stated above, when an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that, as of the date the application is deposited in the Patent and Trademark Office, (1) the invention has been assigned to the applicant, or (2) the inventor has agreed in writing to assign the invention to the applicant, or (3) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application. Therefore, further evidence is required to establish that the assignment in fact constitutes an assignment of the instant application to DZGenes, Inc.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Mr. Moskowitz under 37 CFR 1.47(b) at this time.

CONCLUSION

The petition filed under 37 CFR 1.47(b) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO MONTHS from the mailing date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b).

Application No.: 10/333,892

4

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



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



13 APR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE



78

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Edward J. Hejlek
Senniger, Powers, Leavitt & Roedel
One Metropolitan Square, 16th Floor
St. Louis, Missouri 63102

In re Application of :
MOSKOWITZ, David W. :
Application No. 10/333,892 :
PCT No.: PCT/US01/23368 :
Int. Filing Date: 25 July 2001 :
Priority Date: 25 July 2000 :
Attorney Docket No.: DZG2185.2 :
For: DIAGNOSTIC POLYMORPHISMS FOR :
THE TGF-BETA1 PROMOTER :

DECISION ON PETITION
UNDER 37 CFR 1.47(b)

This is a decision on applicant's "Renewed Petition Under 37 CFR 1.47(b)" filed 17 December 2003 to accept the application without the signature of inventor, David Moskowitz.

BACKGROUND

On 10 January 2001, applicant filed international application PCT/US01/23368 which claimed a priority date of 25 July 2000. A Demand was filed with the International Preliminary Examination prior to the 19th month from the earliest claimed priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America was extended to expire 30 months from the priority date, 25 January 2003.

On 24 January 2003, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of international application; and unexecuted declaration.

On 25 June 2003, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed. The notification set a two-month time limit in which to respond.

On 05 August 2003, applicant filed a petition under 37 CFR 1.47(b). The petition was dismissed without prejudice in a "Decision on Petition" on 17 September 2003.

On 17 December 2003, applicant filed the present renewed petition under 37 CFR 1.47(b) and a one-month extension of time fee.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(i); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. The 37 CFR 1.47(b) applicant has satisfied the requirements of item (1) through (4) and (6) above.

As to Item (5), a review of the materials submitted with the renewed petition reveals that applicant has now submitted materials which, taken in combination with the previous submission, satisfy all the requirements for a grantable petition under 37 CFR 1.47(b).

CONCLUSION

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

The application will be given an international filing date of 25 July 2001 under 35 U.S.C. 363, and a date of **05 August 2003** under 35 U.S.C. 371(c).

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

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

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



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



13 APR 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

David W. Moskowitz
518 Bonhomme Woods Drive
St. Louis, Missouri 63132

In re Application of
MOSKOWITZ, David W.
Application No. 10/333,892
PCT No.: PCT/US01/23368
Int. Filing Date: 25 July 2001
Priority Date: 25 July 2000
Attorney Docket No.: DZG2185.2
For: DIAGNOSTIC POLYMORPHISMS FOR THE TGF-BETA1 PROMOTER

Dear Mr. Moskowitz:

You are identified as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. Should a patent be granted, you will be designated as an inventor.

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

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

Counsel of Record:
Edward J. Hejlek
Senniger, Powers, Leavitt & Roedel
One Metropolitan Square, 16th Floor
St. Louis, Missouri 63102



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1601 MARKET STREET
SUITE 2400
PHILADELPHIA PA 19103-2307

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SEP 19 2008

In re Patent No. 7323302 :
Issue Date: 01/29/2008 :
Application Number: 10/333895 : ON PETITION
Filing Date: 08/29/2003 :
Attorney Docket Number: 0380- :
P03092USO :

This is a decision on the petition under 37 CFR 1.182, filed on June 17, 2008, 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 January 29, 2008, 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.

Petitioner's counsel asserts that the original Letters Patent was never received. However no supporting evidence, such as any mail logs or docket records, has been provided. As such, petitioners have provided a sufficient showing that the Letters Patent was never received. Nevertheless, as the petition fee has been submitted, the petition may be favorably considered.

The petition fee of \$400.00 has been received.

The petition is granted.

A copy of this decision is being forwarded to the Office of Data Management for issuance of a duplicate Letters Patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



Douglas I. Wood
Petitions Attorney
Office of Petitions

cc: Niomi Farmer, South Tower 8C23 (FAX 571-270-9753)

02 JUL 2003

#5



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WASHINGTON, D.C. 20231
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Mark J. Hyman
Human Genome Sciences, Inc.
9410 Key West Avenue
Rockville, MD 20850

In re Application of :
BIRSE, Charles E. et al. :
Application No.: 10/333,900 :
PCT No.: PCT/US01/08585 :
Int. Filing Date: 16 March 2001 :
Priority Date: 17 March 2000 :
Docket No.: PA006PCT :
For: 7 HUMAN OVARIAN AND OVARIAN :
CANCER ASSOCIATED PROTEINS :

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

Applicant's "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 24 January 2003 is **GRANTED**.

Applicant states "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a)-(b) has been submitted.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 24 January 2003 under 35 U.S.C. §371.

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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GREENBLUM AND BERNSTEIN PLC
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

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OFFICE OF PETITIONS

In re Application of :
KIM, YONGSUN :
Application No. 10/333,903 :
Filed: January 30, 2003 :
Attorney Docket No. P23264.A08 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as Attorneys or Record under 37 C.F.R. § 1.36(b), filed July 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). Further, a proper reason for the withdrawal as enumerated in 37 CFR § 10.40(b) or subsection (1)-(6) of 37 CFR § 10.40(c) must be provided.

The request was signed by Mr. William E. Lyddane on behalf of all the practitioners of record who are associated with customer No. 07055.

The request satisfies the above requirements. Accordingly, all practitioners associated with Customer No. 07055 have been withdrawn. Applicant is advised that there is no attorney of record at this time.

All future communications from the U.S. Patent and Trademark Office (USPTO) will be directed to the below-listed address until otherwise notified by applicant. This correspondence address for the above-named applicant of this application was provided by the withdrawing attorneys. Applicant is reminded of the obligation to promptly notify the USPTO of any change in the correspondence address to ensure receipt of all communications from the Office.

Applicant is advised that a final Office action was mailed in this application on April 21, 2006, which set a three month shortened statutory period for reply. Extensions of time are available pursuant to the provisions of 37 CFR 1.136(a). A **proper reply** to a final Office action 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). Failure to file a proper reply, along with the appropriate extension of time fee, will result in the abandonment of the application.

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


Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Mr. Yongsun Kim
GLM Co., LTD.
N.201, Dananestvil
780-2 Mok-dong, Yangcheon-gu
Seoul 158-050
Republic of Korea



10 MAR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

11.6

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Norman Oblon
Oblon, Spivak, McClelland, Maier & Neustadt
1940 Duke Street
Arlington, VA 22314

In re Application of	:	
ASHWORTH et al.	:	
Application No.: 10/333,922	:	
PCT No.: PCT/GB01/03344	:	DECISION ON PETITION
Int. Filing Date: 25 July 2001	:	UNDER 37 CFR 1.181
Priority Date: 09 August 2000	:	
Atty. Docket No.: 231434US0PCT	:	
For: REDUCING THE LEVEL OF	:	
BACTERIA AND VIRUSES IN	:	
AQUACULTURE	:	

This decision is in response to applicant's "Supplemental Petition under 37 CFR 1.181 to Withdraw Holding of Abandonment" filed in the United States Patent and Trademark Office on 14 December 2004. No petition fee is required.

BACKGROUND

On 25 July 2001, applicant filed international application PCT/GB01/03344 which claimed a priority date of 09 August 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 14 February 2002. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 09 February 2003.

On 04 February 2003, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia: the basic national fee; a copy of the international application; and a first preliminary amendment.

On 19 May 2003, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 07 January 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 19 May 2003 within the time period set therein.

On 14 December 2004, applicant filed the present petition accompanied by, among other things: a copy of the petition to withdraw holding of abandonment filed 08 March 2004; a copy of the docket record; an executed declaration and a postcard receipt date stamped 08 March 2004.

DISCUSSION

Applicant states in their present petition that a petition to withdraw the holding of abandonment was received at the United States Patent and Trademark Office on 08 March 2004. A review of the present application reveals that the petition to withdraw the holding of abandonment and accompanying papers filed 08 March 2004 are not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

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

Here, applicant has provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicant, title of invention, application number, and an attorney docket number. The receipt itemizes; petition to withdraw the holding of abandonment; a copy of the docket record; and an executed declaration. The receipt is stamped "Rec'd. PCT/PTO 08 March 2004" across its face is sufficient to indicate that the petition to withdraw the holding of abandonment and accompanying papers were in fact received in the Office on 08 March 2004.

Applicant further states that Notification of Missing Requirements mailed 19 May 2003 was not received. With regards to applicant's request that the holding of abandonment be withdrawn, a proper showing in order to establish that papers were not received as set forth in the Official Gazette at 1156 OG 53 must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement by the practitioner attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Applicant's petition filed 08 March 2004 satisfies items (1) -(3).

CONCLUSION

For the reasons above, the request is GRANTED. The holding of Abandonment is withdrawn.

The application has an international filing date of 25 July 2001 under 35 U.S.C. 363 and a 35 U.S.C. 371(c) date of **08 March 2004**.

Application No.: 10/333,922

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



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

24 JUL 20



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In re Application of	:	DECISION ON
Knaack et al	:	
PCT No.: PCT/US01/23662	:	
Application No: 10/333,941	:	PETITION UNDER
Int. Filing Date: 24 July 2001	:	
Priority Date: 24 July 2000	:	
Attorney's Docket No.: GCD99.40	:	37 CFR 1.47(a)
For: Polarization Diversity Detector Mask	:	
Selection Algorithm	:	

This is in response to the "This petition is submitted under the provisions of 37 C.F.R. 1.47(a)" filed on 06 May 2003. The \$130.00 petition fee has been paid by check.

BACKGROUND

On 24 July 2001, applicants filed international application PCT/US01/23662, which claimed priority to an earlier application filed 24 July 2000. A DEMAND was filed on 20 February 2002 prior to the expiration of 19 months from the priority date electing the United States. Accordingly, the thirty-month (30) time period for paying the basic national fee in the United States of America expired at midnight on 24 January 2003.

On 23 January 2003, applicants filed for entry into the national stage in the United States of America. Filed with the application was, inter alia, the requisite basic national fee. No executed oath or declaration from the inventors accompanied the application at such time.

On 06 March 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a), and (b), identifying the application by International application number and international filing date" must be submitted within two months from its 06 March 2003 date of

mailing or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 06 May 2003, petitioner filed the present petition accompanied, inter alia, an executed Declaration without the signature of one of the two inventors, i.e., without the signature of William Christopher Knaack.

DISCUSSION

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

Furthermore, section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

REFUSAL TO JOIN:

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. The fact that an application may contain proprietary information does not relieve the **37 CFR 1.47** applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See **MPEP § 106**. It is reasonable to require that the inventor be presented with the application papers before a petition under **37 CFR 1.47** is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

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

When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Petitioner has satisfied requirements (1), and (4) of 37 CFR 1.47(a). However, requirements (2) and (3) have not been satisfied.

In this case, it has not been sufficiently demonstrated that a copy of the application papers were presented to the nonsigning inventor William Christopher Knaack. Petitioner asserts that a letter was mailed on 25 August 2001 to Mr. Knaack requesting him to sign either a PCT Request form or a power of attorney for the present PCT application and that another letter was mailed to Mr. Knaack on 27 December 2002 requesting him to sign a declaration for the present US national application. And that Mr. Knaack has not returned any signed documents to petitioner's office as requested. The copies forwarded to him, however, did not appear to include a copy of the application papers (specification, including claims, drawings, and oath or declaration) as required under MPEP 409.03(d) since only the declaration of inventorship, PCT Request and power of attorney were mentioned as being sent to Mr. Knaack. In addition, Petitioner has not submitted copies of documentary evidence such as mail receipts as required to support his allegation about the letters sent to Mr Knaack.

Regarding requirement 3, petitioner has not provided a statement of the last known address of the missing inventor, Mr. Knaack.

Consequently, the current record does not sufficiently establish that William Christopher Knaack refusal to join in the application.

CONCLUSION

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

If reconsideration of the merits of the petition under 37 CFR 1.47(a) is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." Extensions of time are available under 37 CFR 1.136(a). Failure to timely file the proper response will result in ABANDONMENT.

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

Rafael Bacares
PCT Legal Examiner
PCT Legal Office



Boris Milef
PCT Legal Examiner
PCT Legal Office

Telephone: (703) 308-6312
Facsimile: (703) 308-6459

107 NOV 2003

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P.O. Box 1450
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www.uspto.gov

William Christopher Knaack
8000 Moorcroft Avenue
West Hills, California 91304

In re Application of
Knaack et al
PCT No.: PCT/US01/23362
Application No: 10/333,941
Int. Filing Date: 24 July 2001
Priority Date: 24 July 2000
Attorney's Docket No.: GCD99.40
For: Polarization Diversity Detector Mask
Selection Algorithm

Dear Mr. Knaack:

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

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.47(a) and (b).

A handwritten signature in black ink, appearing to read "R. Bacares".

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

Lynn & Lynn
2915 Redhill Avenue
Suite F 200
Costa Mesa, CA 92626



OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of an application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of all inventors. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (Mr. William Christopher Knaack) may join in the application by promptly filing an appropriate oath or Declaration complying with 37 CFR 1.497(a) and (b). The international application number is PCT/US01/23362 and was filed on 24 July 2001 in the names of William Christopher Knaack, and Gregory Alan Gibbons for the invention entitled Polarization Diversity Detector Mask Selection Algorithm. The national stage application number is 10/333,941 and has a 35 U.S.C. 371 date of 06 May 2003.

07 NOV 2003

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John H Lynn
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Costa Mesa, CA 92626

In re Application of	:	DECISION ON
Knaack et al	:	
PCT No.: PCT/US01/23362	:	
Application No: 10/333,941	:	RENEWED PETITION
Int. Filing Date: 24 July 2001	:	
Priority Date: 24 July 2000	:	
Attorney's Docket No.: GCD99.40	:	UNDER 37 CFR 1.47(a)
For: Polarization Diversity Detector Mask	:	
Selection Algorithm	:	

This is in response to the "Renewed Petition Under 37 C.F.R. 1.47(a)" filed on 24 Sep 2003.

BACKGROUND

In a decision from this Office on 24 July 2003 on the petition filed on 06 May 2003 was dismissed. The decision stated it does not appear that petitioner made a bona fide attempt to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) as required under 37 CFR 1.47(a) to the non-signing joint inventor Mr. Knaack, and that after presentation of the complete copy Mr. Knaack refused to sign the Declaration.

In addition, petitioner had not provided a statement of the last known address of the missing inventor, Mr. Knaack.

On 24 September 2003, petitioner filed the present renewed petition.

DISCUSSION

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

The petition of 06 May 2003 satisfied items (1) and (4) of 37 CFR 1.47(a). However, items (2) and (3) were not satisfied. The renewed petition satisfies items (2) and (3) of 1.47(a).

The averments of Mr. John Lynn are sufficient to support a finding that the nonsigning inventor, Mr. Knaack refuses to sign because a copy of the patent application papers including the Specification, Claims, Drawings, and a Declaration was delivered to Mr. Knaack for his execution on August 26, 2003 and to this date he has not responded to it. Mr. Lynn has provided a copy of the cover letter and the registered mail return receipt confirming that receipt of the application papers on August 26, 2003. Moreover, Mr. Lynn telephoned Mr. Knaack on 19 August 2003 and Mr. Knaack said he would not sign the required papers. Accordingly, the steps enumerated by Mr. Lynn are sufficient to establish that the Mr. Knaack has refused to sign the declaration.

In addition, petitioner has provided the last known address of Mr. Knaack, which is:

8000 Moorcroft Avenue
West Hills, California 91304

Petitioner has now satisfied items (1), (2), (3), and (4) under 37 CFR 1.47(a), thus completing the requirements under 37 CFR 1.47(a).

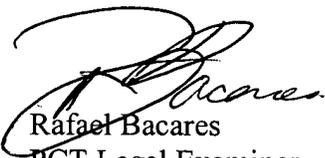
CONCLUSION

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

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

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing to accept the application as a 37 CFR 1.47(a) application and to mail a filing receipt. The 35 USC 371 date of this application is **06 May 2003**.



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Richard Cole
PCT Legal Examiner
PCT Legal Office

28 MAY 2003

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Incyte Genomics, Inc.
3160 Porter Drive
Palo Alto, CA 94304

In re Application of	:	
Thornton et al.	:	
Application No.: 10/333,946	:	
PCT No.: PCT/US01/23433	:	
Int. Filing Date: 25 July 2001	:	DECISION
Priority Date: 27 July 2000	:	
Attorney Docket No.: PI-0176 PCT	:	
For: ECM-Related Tumor Marker	:	

This is a decision on applicants' "Communication Re Inventor Name Change" filed on 22 January 2003.

BACKGROUND

This international application was filed on 25 July 2001 and claimed a priority date of 27 July 2000. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Consequently, the thirty period for payment of the basic national fee in the United States expired as of midnight on 27 January 2003.

On 22 January 2003, applicants filed *inter alia* the basic national fee and the instant communication.

DISCUSSION

Review of the record reveals that the declaration of the inventors filed on 22 January 2003 itemizes a joint inventor, Narinder Chawla, whose name does not appear in the published international application, and that the published international application itemizes a joint inventor, Narinder Walia, whose name does not appear in the declaration of the inventors filed on 22 January 2003. Counsel indicates that "the inventor has married and changed her name to Narinder K. Chawla." The communication is accompanied by a statement by Ms. Chawla, attesting that the name change was due to marriage. In that this is clearly more than a mere typographic error or phonetic misspelling of applicant's name, a petition under 37 CFR 1.182 is required to resolve this matter. In this regard, counsel's deposit account no. 09-0108 is being charged in the amount of \$130.00 for the petition fee, as authorized by the instant "communication." See MPEP 605.04(c).

CONCLUSION

The petition to accept the declaration as filed on 22 January 2003 is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
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17 APR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

#5

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Chiron Corporation
Intellectual Property - R440
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In re Application of BAKER et al	:	
U.S. Application No.: 10/333,948	:	
Int. Application No.: PCT/US01/41328	:	DECISION ON PETITION
Int. Filing Date: 10 July 2001	:	
Priority Date: 10 July 2000	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: 16928.018	:	
For: MACROLIDE FORMULATIONS FOR	:	
INHALATION AND METHODS OF	:	
TREATMENT OF ENDOBRONCHIAL	:	
INFECTIONS	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 C.F.R. § 1.137(b)" filed 22 January 2003.

BACKGROUND

On 10 July 2001, applicant filed international application PCT/US01/41328, which claimed priority of an earlier United States application filed 10 July 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 25 January 2002, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 10 January 2003.

International application PCT/US01/41328 became abandoned as to the United States for failure to timely pay the basic national fee.

On 22 January 2003, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be submitted.



Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459



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
FROM DIRECTORS OFFICE

MAY 06 2005

TECHNOLOGY CENTER 3600

Dennis G. Lapointe
Lapointe Law Group, PL
P.O. Box 1294
Tarpon Springs, FL 34688-1294

In re Application of
Pascal Detable et al
Application No. 10/333,949
Filed: January 24, 2003
For: QUICK-CONNECT COUPLING

**DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT**

This is a decision on applicants' Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on December 10, 2004.

The petition is **DENIED**.

A review of the file record reveals that an After-Final response to the final Office action of April 26, 2004 was filed with the Office on July 19, 2004. However, the Office did not act upon the After-Final response until December 8, 2004 when an Advisory action was issued indicating non-entry of the After-Final response. On October 26, 2004 the application became abandoned with a notice to that effect being mailed December 17, 2004. While it is true that consideration of the After-Final response was delayed, the time period for filing a proper response (i.e., a Notice of Appeal, a Request for Continued Examination, or a response that places the application in condition for allowance) to the Final Office action continues to run if that After-Final response fails to place the application in condition for allowance. 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.

Applicants' petition, and evidence submitted, is insufficient to withdraw the holding of abandonment. In this regard, while it is unfortunate and regrettable that applicants could have extended the time period for up to six-months by paying the necessary fees no such action or authorization by applicants 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 do 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: Customer Service Window
Randolph Building
401 Dulany St.
Alexandria, VA 22314

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

Telephone inquiries should be directed to the Office of Petitions Staff at (571) 272-3282.



Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/jwk: 4/29/05



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FROM DIRECTORS OFFICE

MAY 06 2005

TECHNOLOGY CENTER 3600

Dennis G. Lapointe
Lapointe Law Group, PL
P.O. Box 1294
Tarpon Springs, FL 34688-1294

In re Application of
Pascal Detable et al
Application No. 10/333,949
Filed: January 24, 2003
For: QUICK-CONNECT COUPLING

**DECISION ON PETITION
TO WITHDRAW THE
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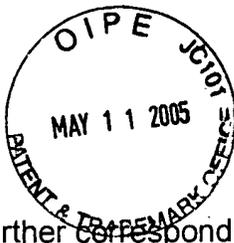
The petition is **DENIED**.

A review of the file record reveals that an After-Final response to the final Office action of April 26, 2004 was filed with the Office on July 19, 2004. However, the Office did not act upon the After-Final response until December 8, 2004 when an Advisory action was issued indicating non-entry of the After-Final response. On October 26, 2004 the application became abandoned with a notice to that effect being mailed December 17, 2004. While it is true that consideration of the After-Final response was delayed, the time period for filing a proper response (i.e., a Notice of Appeal, a Request for Continued Examination, or a response that places the application in condition for allowance) to the Final Office action continues to run if that After-Final response fails to place the application in condition for allowance. 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.

Applicants' petition, and evidence submitted, is insufficient to withdraw the holding of abandonment. In this regard, while it is unfortunate and regrettable that applicants could have extended the time period for up to six-months by paying the necessary fees no such action or authorization by applicants 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.



Further correspondence with respect to a petition to revive should be addressed as follows:

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401 Dulany St.
Alexandria, VA 22314

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

Telephone inquiries should be directed to the Office of Petitions Staff at (571) 272-3282.



Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/jwk: 4/29/05



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.

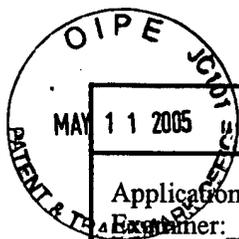
As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

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 do 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."



Applicant Initiated Interview Request Form

Application No.: 10/333949 First Named Applicant: PASCAL DETABLE
Examiner: V.L. MACARTHUR Art Unit: 3679 Status of Application: AFTER FINAL

Tentative Participants:

- (1) DENNIS LAPOINTE
- (2) Possibly Foreign Counsel (POT Application) REPRESENTATIVE
- (3) EXAMINER
- (4) _____

Proposed Date of Interview: Convenience of Examiner Proposed Time: 9:00 (AM/PM)

Type of Interview Requested:

- (1) Telephonic
- (2) Personal
- (3) Video Conference

Exhibit To Be Shown or Demonstrated: YES NO

If yes, provide brief description: _____

Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) <u>Rejection</u>	<u>17-37</u>	<u>5,536,047</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Continuation Sheet Attached

Brief Description of Arguments to be Presented:

BELIEVE EXAMINER IS NOT INTERPRETING APPLICANT'S PRIOR PATENT 5,536,047 CORRECTLY AND NEED CLARIFICATION FROM EXAMINER

An interview was conducted on the above-identified application on _____.

NOTE:

This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

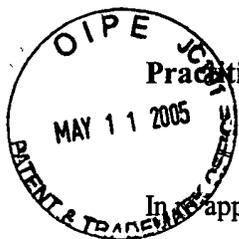
Dennis A. Lapointe

(Applicant/Applicant's Representative Signature)

(Examiner/SPE Signature)

This collection of information is required by 37 CFR 1.133. 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 21 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, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



Practitioner's Docket No. 3659.005

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In application of: Pascal DETABLE et al.

Application No.: 10/333,949
Filed: 01/24/2003
For: Quick-Connect Coupling

Group No.: 3679
Examiner: V. L. MacArthur

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

ED868075794US

EXPRESS MAIL CERTIFICATE

"Express Mail" label number: ED 868075794 US
Date of Deposit: 05/11/2005

I hereby state that the following *attached* paper or fee

Petition to Revive Application Abandoned Unintentionally
Request for Continued Examination Transmittal
RCE and Response to Final Office Action
Express Mail Certificate
Post Card

is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10, on the date indicated above and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Robin Dee Carter

Signature of person mailing paper or fee



DENNIS G. LAPOINTE
LAPOINTE LAW GROUP, PL
P.O. BOX 1294
TARPON SPRINGS, FL 34688-1294

COPY MAILED

JUN 20 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Pascal Detable et al :
Application No. 10/333,949 :
Filed: January 24, 2003 :
Attorney Docket No. 3659.005 :

This is a decision on the petition filed, May 11, 2005 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed April 26, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 27, 2004.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on May 11, 2005.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$1020 extension of time submitted with the petition on May 11, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This matters is being referred to Technology Center AU 3679 for further processing.

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



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

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FEB 03 2009

OFFICE OF PETITIONS

In re Patent No. 7,214,494 :
Issue Date: January 27, 2003 :
Application No. 10/333,958 : **ON PETITION**
Filed: December 30, 2002 :
Attorney Docket No. 2003-0098A :

This is a decision on the Request for Certificate of Correction filed February 5, 2008, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to JoAnne Burke at (571) 272-4584. 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.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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

RAM Fee History
Query
Revenue Accounting and Management

Name/Number: 7214494

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
02/06/2008	00000004	<u>2</u>	<u>1811</u>	\$100.00	02/05/2008	CK
02/06/2008	00000005	<u>2</u>	<u>1464</u>	\$130.00	02/05/2008	CK



David L. Henty
19900 MacArthur Blvd
Suite 1150
Irvine CA 92612

In re Application of:
David L. Henty
Application Serial No.: 10/333,995
Filed: January 24, 2003
For: **REMOTE CONTROL METHOD USING
REMOTE CONTROL DEVICE WITH KEYBOARD**

MAILED

JUN 24 2005

**DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2800**

**DECISION
ON PETITION**

This is a decision on the petition filed June 15, 2005, pursuant to 37 C.F.R. §1.181. No fee is required.

Petitioner's Argument and Request For Relief

Petitioner presents several points to be reviewed. (1) Whether it is proper to issue an Office action in a national stage application without giving weight to a prior favorable international preliminary examination report by the USPTO acting as International Preliminary Examining Authority; (2) If it is proper to give weight to such a prior favorable report of the USPTO acting as International Preliminary Examining Authority in what situations may claims be rejected despite such a favorable report, and what guidelines should apply. In particular, should the standards of MPEP §706.04 apply; and (3) Is the Office action in the present case on its face inconsistent with the appropriate standards of deference as determined in issue (2) and in particular with MPEP §706.04.

Petitioner requests that (1) That the examiner be directed to withdraw the pending Office action due to the failure to give any weight to the prior favorable report issued by the USPTO acting as International Preliminary Examining Authority; (2) That the examiner be directed to issue a notice of allowance, in light of the lack of any basis in the Office action to reject the claims while being consistent with the appropriate deference to the prior holding by the USPTO acting as International Preliminary Examining Authority; (3) In the alternative, clarify the standard of deference to be given the prior holding of the USPTO acting as International Preliminary Examining Authority and that the examiner be directed to carefully review the international prosecution and apply such standard; and (4) that the case be reassigned to the examiner who handled the international examination to avoid inconsistent handling of the case.

Relevant Application History

On October 1, 2002, an International Preliminary Examination Report issued in the PCT application which is the parent to the subject application, wherein a favorable decision was rendered with respect to the claims and art of record. In other words, the claims met Article 33(2) through 33(4) over the art of record.

On January 24, 2003, the subject application was filed and subsequently assigned to an examiner other than the examiner which examined the PCT application.

On February 11, 2005 a non-final Office action was mailed in the subject application with the time period restarted on April 12, 2005. Within the outstanding non-final Office action, the assigned examiner for the national stage application rejected claims 1-10 and 12-20 as being

unpatentable over Kubo in (5,436,625) view of Makhlouf (6,292,172) and Chiu et al. (5,457,453). The examiner for the PCT application considered the claims in light of the Kubo reference. It does not appear as though the additional references Makhlouf or Chiu et al. were made of record in the PCT application.

Response To Arguments

With respect to petitioner's first two points for review, MPEP §1893.03(e) establishes the relationship between the international preliminary examination report and national stage application.

MPEP §1893.03(e) National Stage (U.S. National Application Filed Under 35 U.S.C. 371), states in part:...

When an international preliminary examination is performed by an International Preliminary Examining Authority (IPEA), an international preliminary examination report (IPER) is prepared on Form PCT/IPEA/409 by the IPEA and sent to the elected Offices. **This report reflects the IPEA's non-binding opinion regarding novelty, inventive step and industrial applicability.** For international applications filed on or after January 1, 2004, the IPER bears the title "International Preliminary Report on Patentability (Chapter II of the Patent Cooperation Treaty)"...

The examiner may adopt any portion or all of the report on patentability of the IPEA or ISA upon consideration in the national stage so long as it is consistent with U.S. practice. The first Office action on the merits should indicate the report on patentability of the IPEA or ISA has been considered by the examiner. The indication may be a mere acknowledgement. ...

It is desirable for the U.S. examiner to consider the documents cited in the international application when examining the U.S. national stage application or when examining an application filed under 35 U.S.C. 111(a) which claims the benefit of the international application under 35 U.S.C. 365(a) or (c)...

The itemized list includes an indication of whether a copy of the international search report and copies of the references cited therein are present in the national stage file. The examiner will consider the documents cited in the international search report, without any further action by applicant under 37 CFR 1.97 and 1.98, when both the international search report and copies of the documents are indicated to be present in the national stage file. The examiner will note the consideration in the first Office action. There is no requirement that the examiners list the documents on a PTO-892 form. See form paragraphs 6.53, 6.54, and 6.55 (reproduced in MPEP § 609). Otherwise, applicant must follow the procedure set forth in 37 CFR 1.97 and 1.98 in order to ensure that the examiner considers the documents cited in the international search report. [emphasis added]

With respect to Petitioner's reference to MPEP §706.04 in their second and third points, specifically giving "full faith and credit to a previous search and action of another examiner", refers to a situation in which the same application was reassigned, for whatever reason, to another examiner (e.g., the first examiner were to leave the Office, full faith and credit is given to the examiner's previous search and action within an application). This does not apply to two separate applications, particularly given that the opinions in the international preliminary examination report is non-binding.

Decision

The International Preliminary Examining Authority's opinion is non-binding in the U.S. national stage. Moreover, the examiner set forth a different ground of rejection than what was proposed during the international preliminary examination. Although the examiner apparently did not acknowledge consideration of the international preliminary report on patentability, the examiner is not bound by the report.

With respect to petitioner's first and second relief requests, i.e., withdraw of the outstanding Office action and issue a Notice of Allowance, MPEP §706 Rejection of Claims, states in part:

After the application has been read and the claimed invention understood, a prior art search for the claimed invention is made. With the results of the prior art search, including any references provided by the applicant, the patent application should be reviewed and analyzed in conjunction with the state of the prior art to determine whether the claims define a useful, novel, nonobvious, and enabled invention that has been clearly described in the specification. ...

37 CFR 1.104. Nature of examination.

(c) Rejection of claims .

(1) If the invention is not considered patentable, or not considered patentable as claimed, the claims, or those considered unpatentable will be rejected.

(2) In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.

An application should not be allowed, unless and until issues pertinent to patentability have been raised and resolved in the course of examination and prosecution, since otherwise the resultant patent would not justify the statutory presumption of validity (35 U.S.C. 282), nor would it "strictly adhere" to the requirements laid down by Congress in the 1952 Act as interpreted by the Supreme Court. The standard to be applied in all cases is the "preponderance of the evidence" test. In other words, an examiner should reject a claim if, in view of the prior art and evidence of record, it is more likely than not that the claim is unpatentable. [emphasis added]

As stated within the petition, the examiner and the examiner's supervisor believes that the outstanding rejection to be reasonable. Therefore, this decision will not entertain the request to merely withdraw the outstanding Office action and issue a Notice of Allowance. To do so would raise a question of invalidity.

The Office does try to insure that the aforementioned situation does not occur, i.e., international application assigned to one examiner and the national stage assigned to another examiner.

MPEP §903.08(b) states in part:...

The object of having the U.S. national and PCT applications assigned to the same examiner is to promote consistent search and examination results.

Although there was an apparent oversight on the Office's part in assignment of the national stage application, it does not appear as though the assigned examiner for the national stage application violated MPEP §706 or 37 C.F.R. §1.104.

Accordingly, the petitioner's request for relief in the form of withdraw of the outstanding Office action, issuance of a Notice of Allowance and reassignment of the application, is Denied.

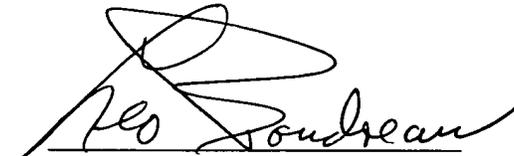
With respect to petitioner's third point in their request for relief, i.e., clarify the standard of deference to be given the prior holding of the USPTO acting as International Preliminary Examining Authority and that the examiner be directed to carefully review the international prosecution and apply such standard, petitioner is correct in that the examiner for the national stage application should have acknowledged the consideration of the international preliminary examination report. However, the examiner (regardless if it is the same examiner or different examiner) is not bound by the report. Had the same examiner been assigned to the national stage application, that examiner could very well have found additional art or even changed their opinion of the existing art in the report and issued an Office action based on the art in the report.

As indicated in MPEP §1893.03(e), excerpted above:

The examiner may adopt any portion or all of the report on patentability of the IPEA or ISA upon consideration in the national stage so long as it is consistent with U.S. practice. The first Office action on the merits should indicate the report on patentability of the IPEA or ISA has been considered by the examiner. The indication may be a mere acknowledgement. ... [emphasis added]

Accordingly, the examiner is directed in the next Office action to acknowledge consideration of the international preliminary examination report.

Petitioner also questioned the benefit to applicant for going through the International Examining Authority (US or other searching authority) if deference is not given to the report. One benefit is that applicant(s) would be entitled to a reduced filing fee for the national stage application if (1) the US were the International Searching Authority and (2) the report indicated that the claims satisfied articles 33(2) – 33(4) and the national stage application were filed with the same claims that the report was based upon.



Leo Boudreau, acting Director
Technology Center 2600
Communications



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN CT 06510

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MAR 10 2006

OFFICE OF PETITIONS

In re Application of :
Craig A. NORDEEN, *et al.* :
Application No. 10/334,019 :
Filed: December 30, 2002 :
Attorney Docket No. 02-821-EH-10803 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on February 13, 2006 to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee and the publication fee in a timely manner in reply to the Notice of Allowance and Fee(s) Due, mailed on September 1, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned, by operation of law, on December 2, 2005. A Notice of Abandonment was mailed on February 8, 2006.

The instant petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee and of the Publication Fee; (2) the petition fee of \$1500; and (3) the required statement of unintentional delay have been received. Accordingly, the Issue fee and the Publication Fee payments are 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 forwarded to the Office of Patent Publication.

David Bacci
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. None

NIKOLAI & MERSEREAU, P.A.
900 SECOND AVENUE SOUTH
SUITE 820
MINNEAPOLIS MN 55402

COPY MAILED

SEP 30 2005

OFFICE OF PETITIONS

In re Application of	:
Pavel V. Korchagin et al.	:
Application No. 10/334,023	:
Filed: December 30, 2002	:
Attorney Docket No. 20020330.CIP	:
Title: HIGH-RISE, FIRE-FIGHTING, RESCUE	:
AND CONSTRUCTION EQUIPMENT	:

DECISION ON PETITION
UNDER 37 C.F.R. §1.182

This is a decision on the petition under 37 C.F.R. §1.182, filed July 14, 2005, to change the name of one of one of the joint inventors. Petitioner has requested that the inventor formerly known as "Vladimir Ivonovitch Maloletkov" be listed as "Vladimir Ivonovitch Yudakov." Petitioner has submitted the petition fee of \$400, a certified copy of the court order showing this change of name, and a translation of the same. However, Petitioner has not submitted an affidavit which has been signed with both names.

As such, the petition under 37 C.F.R. §1.182 is **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.182." This is not a final agency action within the meaning of 5 U.S.C §704.

The renewed petition should display "Please deliver to Paul Shanoski, c/o Office of Petitions" in a prominent manner and may be submitted by mail¹, hand-delivery², or facsimile³. The renewed petition should contain an affidavit which has been signed with both names.

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

2 Customer Window, Randolph Building, 401 Dulany Street, Alexandria, VA, 22314.

3 (571) 273-8300- please note this is a central facsimile number.

Application No. 10/334,023

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.

The Power of Attorney and Correspondence Address has been entered and made of record.



Paul Shanowski
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
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Paper No. None

NIKOLAI & MERSEREAU, P.A.
900 SECOND AVENUE SOUTH
SUITE 820
MINNEAPOLIS MN 55402

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NOV 18 2005

In re Application of
Pavel V. Korchagin et al.
Application No. 10/334,023
Filed: December 30, 2002
Attorney Docket No. 20020330.CIP
Title: HIGH-RISE, FIRE-FIGHTING, RESCUE
AND CONSTRUCTION EQUIPMENT

: **OFFICE OF PETITIONS**
:
: DECISION ON
: RENEWED PETITION
: UNDER 37 C.F.R. §1.182
:
:

This is a decision on the renewed petition under 37 C.F.R. §1.182, filed November 3, 2005, to change the name of one of one of the joint inventors. Petitioner has requested that the inventor formerly known as "Vladimir Ivonovitch Maloletkov" be listed as "Vladimir Ivonovitch Yudakov." Petitioner has submitted the petition fee of \$400, a certified copy of the court order showing this change of name, and a translation of the same.

The original petition was submitted on July 14, 2005, and was dismissed via the mailing of a decision on September 30, 2005. With this renewed petition, Petitioner has submitted an argument and it has been deemed to be persuasive.

As such, the renewed petition under 37 C.F.R. §1.182 is **GRANTED**. The inventor is now listed as:

Vladimir Ivonovitch Yudakov

A corrected filing receipt has been enclosed.

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 Shanowski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

Enclosure: Corrected Filing Receipt



Fish & Richardson, P.C.
P.O. Box 1022
Minneapolis, MN 55440-1022

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JUL 18 2007

OFFICE OF PETITIONS

In re Application of
Brian Heikes et al.
Application No. 10/334,027
Filed: December 31, 2002
Attorney Docket No. 06975-359001/Personaliz

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 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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DEC 28 2006

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

In re Application of :
Kyle J. MacBeth et al :
Serial No.: 10/334,038 : PETITION DECISION
Filed: December 30, 2002 :
Attorney Docket No.: 07334-135003 :

This is in response to the petition under 37 CFR 1.181, filed August 21, 2006, requesting Supervisory review of a Notice of Incomplete Response.

The file history shows that applicants filed a response to the Office action mailed December 2, 2005, on May 2, 2006, which consisted of an IDS and an extension of time for two months and the fee therefore. No other papers were indicated as received at that time. A further response including additional references omitted from the response of May 2, 2006, was filed on May 19, 2006. On July 28, 2006, the examiner mailed a Notice of Incomplete Response to applicants setting a one month period for reply. Applicants replied on August 21, 2006, with a copy of the response filed May 2, 2006, and this petition.

Applicants state that the reply filed May 2, 2006, and received by the Office May 5, 2006, was a complete reply and provide as evidence thereof an Office date stamped return postcard showing what was submitted. The postcard indicates that a complete reply was submitted which, for reasons unknown, was not properly entered into the IFW system. Applicants have now provided a copy of that response which is considered to have been timely made.

The petition is **GRANTED**.

The application will be forwarded to the examiner for further consideration of the complete response considered to have been filed May 2, 2006.

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

John L. LeGuyader
Director, Technology Center 1600



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1111 MONUMENT CIRCLE
INDIANAPOLIS IN 46204

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MAR 15 2005

OFFICE OF PETITIONS

In re Application of :
Sunil G. Anaokar :
Application No. 10/334,043 : DECISION GRANTING PETITION
Filed: December 30, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 1718 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 5, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an executed declaration and the required fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Missing Parts Of Nonprovisional Application of February 20, 2003, 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 the Office of Initial Patent Examination.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/2/09

TO SPE OF : ART UNIT 2811

SUBJECT : Request for Certificate of Correction for Appl. No.: 10334065 Patent No.: 6756618 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's SPE response to 571 270 9890

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:

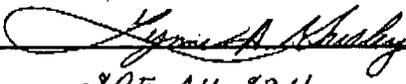
Note your decision on the appropriate box.

- Approved**
- Approved in Part**
- Denied**

- All changes apply.
- Specify below which changes **do not** apply.
- State the reasons for denial below.

Comments: _____

 LYNNE GURLEY
 SUPERVISORY PATENT EXAMINER


 SPE AU 2811

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

[Empty response area]

SPE

Art Unit



UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

APR 17 2009

In re Application of	:	OFFICE OF PETITIONS
Ronald A. Sahatjuan, et al.	:	
Application No. 10/334,096	:	DECISION ON PETITION
Filed: December 30, 2002	:	TO WITHDRAW
Attorney Docket No. 498-279 RCE III	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 16, 2009 and resubmitted April 2, 2009.

The request is **NOT APPROVED**.

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

The request cannot be approved because practitioners were not appointed by customer number. In order to withdraw by customer number practitioners must be appointed by customer number.

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

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: RONALD A. SAHATJIAN
29 SADDLE CLUB ROAD
LEXINGTON, MA 02173



Fish & Richardson, P.C.
P.O. Box 1022
Minneapolis, MN 55440-1022

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MAY 24 2007

OFFICE OF PETITIONS

In re Application of
Brian Heikes et al.
Application No. 10/334,129
Filed: December 31, 2002
Attorney Docket No. 06975-361001/Personaliz

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:

**DECISION ON PETITION
TO WITHDRAW
FROM RECORD**

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

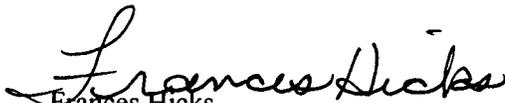
The request was signed by Scott R. Boalick, former attorney with the firm of Fish & Richardson, P.C.

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



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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FOLEY & LARDNER LLP
3000 K. STREET, N.W.
SUITE 500
WASHINGTON, DC 20007

MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of :
David M. Goldenberg :
Application No. 10/334,152 :
Filed: December 31, 2002 :
Attorney Docket No. 018733-1152 :

**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 26, 2004.

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

A review of the file record indicates that the power of attorney FOLEY & LARDNER LLP has been revoked by the assignee of the patent application on November 14, 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: Faegre and Benson, LLP
Patent Department
1900 15th Street
Boulder CO 80302



FRANK L. KUBLER
13261 S.W. 54TH COURT
MIRAMAR, FL 33027

COPY MAILED

MAR 15 2007

OFFICE OF PETITIONS

In re Application of :
Wallace D. Sanger :
Application No. 10/334,156 : **ON PETITION**
Filed: December 30, 2002 :
Attorney Docket No. :

This is a decision on the petition, filed November 6, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **DISMISSED**.

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

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

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed October 7, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). No amendment *prima facie* placing the application in condition for allowance or Notice of Appeal (and appeal fee) was timely filed, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 8, 2005.

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 facsimile: (571) 273-8300
 ATTN: Office of Petitions

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


Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/334,156	Applicant(s) SANGER, WALLACE D.	
	Examiner Hilary Gutman	Art Unit 3612	

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

THE REPLY FILED 06 November 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 _____ 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)).

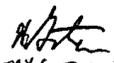
4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. Applicant's reply has overcome the following rejection(s): _____.
6. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment 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: 1-3 and 6-10.
Claim(s) objected to: 15, 16, 18 and 19.
Claim(s) rejected: 11-14, 17, 21 and 22.
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: _____.


HILARY GUTMAN
3612

Continuation of 3. NOTE: applicant has not addressed the objection to claim 16.



FLYNN THIEL BOUTELL & TANIS PC
2026 RAMBLING ROAD
KALAMAZOO, MI 49008-1699

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AUG 17 2006

In re Application of	:	OFFICE OF PETITIONS
Lionel A. Young et al	:	
Application No. 10/334,160	:	DECISION ON PETITION
Filed: December 30, 2002	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 2300.P0091US	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed December 27, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/215,981, filed July 5, 2000, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

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

37 CFR § 1.78(a)(6) requires 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. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 3673 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.



Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt



UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/334,160	12/30/2002	3673	1652	FLOWSERVE C-91	9	5	1

CONFIRMATION NO. 2657

23474
 FLYNN THIEL BOUTELL & TANIS, P.C.
 2026 RAMBLING ROAD
 KALAMAZOO, MI 49008-1631

CORRECTED FILING RECEIPT



OC000000020065065

Date Mailed: 08/17/2006

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)

Lionel A. Young, Murrieta, CA;
 Jeffery R. Staloch, Corona Del Mar, CA;

Power of Attorney:

Ronald Tanis--22724
 Dale Thiel--24323
 Sidney Williams Jr--24949
 David Boutell--25072
 David Goldenberg--31257

Terryence Chapman--32549
 Brian Tumm--36328
 Mark Maki--36589
 Robert Sayfie--37714
 Liane Churney--40694

Domestic Priority data as claimed by applicant

This application is a CON of PCT/US01/21536 07/05/2001
 which claims benefit of 60/215,981 07/05/2000

Foreign Applications

If Required, Foreign Filing License Granted: 04/03/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US10/334,160**.

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

SEAL RING AND METHOD OF FORMING MICRO-TOPOGRAPHY RING SURFACES WITH A LASER

Preliminary Class

029

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MOTOROLA INC.
600 NORTH US HIGHWAY 45
ROOM AS437
LIBERTYVILLE, IL 60048-5343

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SEP 13 2007

OFFICE OF PETITIONS

In re Application of :
Ralph D. Smallwood et al :
Application No. 10/334,161 :
Filed: December 30, 2002 :
Attorney Docket No. CS11190 :

DECISION ON PETITION

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 5, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed October 5, 2006. Accordingly, the date of abandonment of this application is January 6, 2007. A Notice of Abandonment was mailed on February 5, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

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


Frances Hicks

Petitions Examiner
Office of Petitions



MICHAEL A. BERNADICOU
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025

COPY MAILED

JUL 30 2004

OFFICE OF PETITIONS

In re Application of :
Mauro J. Kobrinsky et al :
Application No. 10/334,172 :
Filed: December 28, 2002 :
Attorney Docket No. 042390.P14692 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 12, 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 October 3, 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 January 4, 2004.

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

This matter is being referred to Technology Center AU 2815.

Wan Laymon
Wan Laymon

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROSS D. SNYDER & ASSOCIATES, INC.
PO BOX 164075
AUSTIN, TX 78716-4075

Mail Date: 04/21/2010

Applicant	: Wladyslaw Olesinski	: DECISION ON REQUEST FOR
Patent Number	: 7596789	: RECALCULATION OF PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/334,204	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/30/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1752** 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.



Paper No. 5

FLOYD A. GONZALEZ
IBM CORPORATION
2455 SOUTH ROAD, P386
POUGHKEEPSIE, NY 12601

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JUN 16 2003

**OFFICE OF PETITIONS
ON PETITION**

In re Application of :
Goldrian et al. :
Application No. 10/334,218 :
Filed: December 30, 2002 :
Attorney Docket No. DE92001021US1 :

This decision concerns the May 27, 2003 petition under 37 CFR 1.47(a).¹

The petition is **DISMISSED**.

Three inventors are named in this application which, upon filing, included a declaration that was not executed. A Notice to File Missing Parts of Nonprovisional Application was mailed on February 21, 2003, giving Applicants an extendable 2-month period to submit a properly executed oath/declaration. The instant petition then followed, stating that one of the joint-inventors, Bernd Leppla ("Leppla"), has refused to sign the declaration, and requesting that the signing inventors be allowed to file this application on behalf of themselves and Leppla. The petition is accompanied by a declaration signed by 2 inventors ("5/27/03 Declaration").

The available inventors may file the application on behalf of themselves as well as Leppla, provided that a *bona fide* attempt has been made to present to Leppla, for review and signature, a **copy of the entire application (specification including claims; drawings)**,² and that the latter refuses to join in this application.³

¹ Including a request for a 1-month extension of time and the authorization to charge the \$110 extension-of-time fee to Deposit Account No. 09-0463.

² MPEP section 409.03(d) (Rev.1, Feb. 2003) REFUSAL TO JOIN (A refusal . . . to sign . . . when the inventor[’s representative] has not been presented with the application papers does not itself suggest that [he] is refusing to join in the application unless it is clear that [he] understands exactly what he is being asked to sign and refuses to accept the application papers.); also citing In re Gray, 115 U.S.P.Q. 80 (Comm’r Pat. 1956) (It is reasonable to require that the inventor[’s representative] be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that [he] is apprised of the application to which the oath/declaration is directed.).

³ See MPEP section 409.03(d) (Rev. 1, Feb. 2003) (Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted . . . When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts.).

To show that Leppla has refused to join in this application despite such a *bona fide* attempt, the petition must include, *inter alia*, a statement of facts, signed by a person with **firsthand knowledge** of the facts recited therein, concerning the circumstances of the presentation of the application papers to Leppla at his last known address,⁴ and his subsequent refusal.⁵

The instant petition is accompanied by a statement of facts by 1 of the 2 available inventors, Norbert Schumacher ("Schumacher") ("Schumacher Statement"), stating that Schumacher mailed Leppla the application declaration and the assignment document, and that Leppla not only returned the forms unsigned, but verbally indicated to Schumacher his refusal to sign the documents. However, there is no evidence that, as required by 37 CFR 1.47, a copy of the entire application (specification including claims; drawings) had been provided to Leppla prior to concluding that he refused to join in this application. The petition is thus dismissed. The 5/27/03 Declaration is not accepted.

To prevent abandonment of this application,⁶ one of the following must be submitted within **TWO MONTHS** of the mailing date of this decision:⁷

- (1) an oath/declaration properly signed by all inventors, including Leppla;⁸
- or
- (2) a renewed §1.47(a) petition (no fee) that includes proper statement(s)⁹ of **facts** establishing that a *bona fide* attempt was made to present to Leppla, at his last known address, a copy of the entire application (specification including claims; drawings), and that Leppla nevertheless refused to sign the declaration.

The renewed §1.47(a) petition should be addressed as follows:

by mail/by hand: Commissioner for Patents, USPTO
Office of Petitions
Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

⁴ 37 CFR 1.47(a); MPEP section 409.03(e) (Rev. 1, Feb. 2003).

⁵ See supra note 3.

⁶ See 37 CFR 1.53(f) (If an application which has been accorded a filing date . . . does not include an oath or declaration . . . pursuant to §1.63 . . . , applicant will be notified and given a period of time within which to . . . file an oath or declaration . . . to avoid abandonment).

⁷ Unless proper extension(s) of time under 37 CFR 1.136(a) is (are) obtained.

⁸ A declaration listing the invention and all of the inventors, but signed only by Leppla, would be sufficient for supplementing the 5/27/03 Declaration.

⁹ **Statements based on hearsay will not be considered.**

by fax: (703) 308-6916
Attn: Office of Petitions

Finally, as authorized in the petition, the \$130 petition fee and the \$130 surcharge for failure to submit an acceptable oath/declaration upon filing of the application have been charged to Deposit Account No. 09-0463.

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



RC Tang
Petitions Attorney
Office of Petitions



Paper No. 7

FLOYD A. GONZALEZ
IBM CORPORATION
2455 SOUTH ROAD, P386
POUGHKEEPSIE, NY 12601

COPY MAILED

FEB 13 2004

OFFICE OF PETITIONS

In re Application of	:	
Goldrian et al.	:	
Application No. 10/334,218	:	ON PETITION
Filed: December 30, 2002	:	
Attorney Docket No. DE92001921US1	:	

This decision concerns the August 4, 2003 "Submission of Declaration" which is being treated as a renewed petition under 37 CFR 1.47(a).

The renewed petition is **DISMISSED as moot.**

A "Declaration and Power of Attorney for Patent Application" enclosed with the May 27, 2003 petition under 37 CFR 1.47(a) lacked the signature of one of the named inventors, Bernd Leppla. The available inventors asserted in that petition that Bernd Leppla refused to sign the declaration.

The May 27, 2003 petition was dismissed on June 16, 2003 for lacking sufficient showing that an entire copy of the application (specification including claims; drawings) had been sent to Bernd Leppla before concluding that the latter refused to join in this application.

The instant submission encloses a supplemental declaration signed by all of the named inventors, including Bernd Leppla, rendering a §1.47(a) petition moot and subject to dismissal.

The application is now complete.

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

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

RC Tang
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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

WOODCOCK WASHBURN
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-289

MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Donna K. Hodges, et. al	:	
Application No. 10/334,224	:	DECISION ON PETITION
Filed: December 30, 2002	:	TO WITHDRAW
Attorney Docket No. BELL-0210/02349	:	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 9, 2005.

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

A review of the file record indicates that the power of attorney WOODCOCK WASHBURN has been revoked by the assignee of the patent application on July 17, 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: AT&T CORP.
ROOM 2A207
ONE AT&T WAY
BEDMINSTER NJ 07921



RECEIVED
AUG 20 2003



Bruce D. Grant
Morrison & Foerster LLP
Suite 500
3811 Valley Centre Drive
San Diego CA 92130

DOCKETED: Resp DUE Paper No. 8
REMINDER: 10/15/03
FINAL DUE DATE: 2/15/04

COPY MAILED

AUG 15 2003

In re Application of
Kingsman, et al.
Application No.: 10/334,235
Filed: December 30, 2002
Attorney Docket No.: 532682000920
For: VECTOR SYSTEM

OFFICE OF PETITIONS
DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

RECEIVED

NOV 24 2003

OFFICE OF PETITIONS

This is a decision on the petition under 37 CFR 1.47(a), filed July 7, 2003.
The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on December 30, 2002 without an executed oath or declaration. On March 4, 2003, a Notice to File Missing Parts of Nonprovisional Application (Notice) was mailed. This Notice required petitioners to file an executed declaration, a surcharge for its late filing, replacement drawings, and sequence listing submissions within two months of the mail date of the Notice.

A grantable petition under 37 CFR 1.47(a) requires

- (1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
- (2) a proper oath or Declaration executed by the available joint inventor(s),
- (3) the fee of \$130 as specified in 37 CFR § 1.17(h), and
- (4) the last known address of the omitted inventor(s).

This petition lacks items (1) and (2) above.

As to item (1), Applicants have failed to establish that the non-signing inventor, Christopher Bebbington, cannot be located. The petition contains a declaration by Kati Hudson, who is employed by Oxford Biomedica, a party in interest. Ms. Hudson states that she attempted to contact Dr. Bebbington at his last known business address, but received no reply. Ms. Hudson states that she contacted his former colleagues at Oxford Biomedica, but they could not assist her regarding ascertaining Dr. Bebbington's whereabouts. His former employer could not provide assistance in locating Dr. Bebbington.

A showing of **diligence** is critical in obtaining Rule 47 status when an inventor cannot be located or reached.

Petitioners should engage in further efforts to locate Dr. Bebbington. The following is a list of evidentiary sources that are commonly relied upon to prove inability to locate an inventor: searches of Internet databases; inquiries of local telephone directories; telegrams; and documented inquiries of last known employers. Every listed type of search need not be done. However, a diligent effort to find the inventor must be made. The petition states that the last known location for Dr. Bebbington is San Francisco. Perhaps petitioners should conduct Internet searches for Dr. Bebbington in San Francisco and California.

Documentary evidence that supports a finding that the non-signing inventor could not be found or reached should be made part of any affidavits or declarations that fully describe the exact facts which are relied on to establish that a diligent effort was made to locate the non-signing inventor. Printed computer records would suffice.

The affidavit or declaration of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay will not normally be accepted. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. It is noted that each joint inventor's residence and post office address is all the same. Given the fact that Dr. Bebbington no longer works at Medawar Centre, The Oxford Science Park, it is assumed that he does not receive mail at the same address as the other joint inventors.

The available inventors must execute a new declaration that lists the residence and most recent home address or mailing address for Dr. Bebbington. MPEP 605.03 Hopefully a more diligent search for Dr. Bebbington will yield accurate contact information to list on the declaration.

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of Dr. Bebbington is REQUIRED. See MPEP 409.03(a).

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

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

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

By hand: Office of Petitions
 2201 South Clark Place
 Crystal Plaza 4, Suite 3C23
 Arlington, VA 22202

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


E. Shirene Willis
Senior Petitions Attorney
Office of Petitions



Paper No. 8

Bruce D. Grant
Morrison & Foerster LLP
Suite 500
3811 Valley Centre Drive
San Diego CA 92130

COPY MAILED

AUG 15 2003

**OFFICE OF PETITIONS
DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)**

In re Application of
Kingsman, et al.
Application No.: 10/334,235
Filed: December 30, 2002
Attorney Docket No.: 532682000920
For: VECTOR SYSTEM

This is a decision on the petition under 37 CFR 1.47(a), filed July 7, 2003.
The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on December 30, 2002 without an executed oath or declaration. On March 4, 2003, a Notice to File Missing Parts of Nonprovisional Application (Notice) was mailed. This Notice required petitioners to file an executed declaration, a surcharge for its late filing, replacement drawings, and sequence listing submissions within two months of the mail date of the Notice.

A grantable petition under 37 CFR 1.47(a) requires

- (1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
- (2) a proper oath or Declaration executed by the available joint inventor(s),
- (3) the fee of \$130 as specified in 37 CFR § 1.17(h), and
- (4) the last known address of the omitted inventor(s).

This petition lacks items (1) and (2) above.

As to item (1), Applicants have failed to establish that the non-signing inventor, Christopher Bebbington, cannot be located. The petition contains a declaration by Kati Hudson, who is employed by Oxford Biomedica, a party in interest. Ms. Hudson states that she attempted to contact Dr. Bebbington at his last known business address, but received no reply. Ms. Hudson states that she contacted his former colleagues at Oxford Biomedica, but they could not assist her regarding ascertaining Dr. Bebbington's whereabouts. His former employer could not provide assistance in locating Dr. Bebbington.

A showing of **diligence** is critical in obtaining Rule 47 status when an inventor cannot be located or reached.

Petitioners should engage in further efforts to locate Dr. Bebbington. The following is a list of evidentiary sources that are commonly relied upon to prove inability to locate an inventor: searches of Internet databases; inquiries of local telephone directories; telegrams; and documented inquiries of last known employers. Every listed type of search need not be done. However, a diligent effort to find the inventor must be made. The petition states that the last known location for Dr. Bebbington is San Francisco. Perhaps petitioners should conduct Internet searches for Dr. Bebbington in San Francisco and California.

Documentary evidence that supports a finding that the non-signing inventor could not be found or reached should be made part of any affidavits or declarations that fully describe the exact facts which are relied on to establish that a diligent effort was made to locate the non-signing inventor. Printed computer records would suffice.

The affidavit or declaration of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay will not normally be accepted. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. It is noted that each joint inventor's residence and post office address is all the same. Given the fact that Dr. Bebbington no longer works at Medawar Centre, The Oxford Science Park, it is assumed that he does not receive mail at the same address as the other joint inventors.

The available inventors must execute a new declaration that lists the residence and most recent home address or mailing address for Dr. Bebbington. MPEP 605.03 Hopefully a more diligent search for Dr. Bebbington will yield accurate contact information to list on the declaration.

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of Dr. Bebbington is REQUIRED. See MPEP 409.03(a).

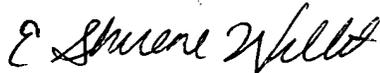
Further correspondence with respect to this matter should be addressed as follows:

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

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

By hand: Office of Petitions
 2201 South Clark Place
 Crystal Plaza 4, Suite 3C23
 Arlington, VA 22202

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



E. Shirene Willis
Senior Petitions Attorney
Office of Petitions



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

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MAR 17 2008

In re Application of	:	
William F. WHALEN	:	
Application No. 10/334,235	:	DECISION ON PETITION
Filed: January 18, 2006	:	TO WITHDRAW
Attorney Docket No. BLU01-02C1	:	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 24, 2008.

The request is **NOT APPROVED**.

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

The request cannot be approved because there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on July 27, 2007.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.



Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MARSHALL, GERSTEIN & BORUN, LLP
233 SOUTH WACKER DRIVE
6300 SEARS TOWER
CHICAGO, IL 60606-6357



Paper No. 5

BUCKLEY, MASCHOFF, TALWALKAR
& ALLISON LLC
5 ELM STREET
NEW CANAAN, CT 06840

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JUN 02 2003

OFFICE OF PETITIONS

In re Application of :
Prasad et al. :
Application No. 10/334,248 :
Filed: December 31, 2002 :
Attorney Docket No. P14793 :

ON PETITION

This decision concerns the May 13, 2003 petition under 37 CFR 1.47(a).¹

The petition is **DISMISSED**.

Three inventors are named in this application which, upon filing, did not include an oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on February 13, 2003, giving Applicants an extendable 2-month period to submit a properly signed oath/declaration. The instant petition then followed, stating that one of the joint-inventors, Simon Sabato ("Sabato"), could not be reached after diligent effort, and requesting that the available inventors be allowed to file this application on behalf of themselves and Sabato. The petition, in conjunction with the accompanying exhibits, in essence asserts that Sabato was located at his new work address, but did not respond to counsel's letter. The petition is accompanied by a declaration signed by 2 inventors ("5/13/03 Declaration").

The available inventors may file the application on behalf of themselves as well as Sabato, provided that a *bona fide* attempt has been made to present to Sabato at his last known address, for review and signature, a copy of the **entire application (specification including claims; drawings)**,² and that the latter refuses to sign the declaration.³ To show that Sabato has refused

¹ Including a request for a 1-month extension of time and the \$110 extension-of-time fee.

² MPEP section 409.03(d) (Rev.1, Feb. 2003) REFUSAL TO JOIN (A refusal . . . to sign . . . when the inventor[’s representative] has not been presented with the application papers does not itself suggest that [he] is refusing to join in the application unless it is clear that [he] understands exactly what he is being asked to sign and refuses to accept the application papers.); also citing *In re Gray*, 115 U.S.P.Q. 80 (Comm’r Pat. 1956) (It is reasonable to require that the inventor[’s representative] be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that [he] is apprised of the application to which the oath/declaration is directed.).

³ See MPEP section 409.03(d) (Rev. 1, Feb. 2003) (Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted . . . When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a

to sign the declaration despite such a *bona fide* attempt, the petition must include, *inter alia*, a **statement of facts** concerning the circumstances of the presentation of the application papers to Sabato at his last known address,⁴ and his subsequent refusal.⁵

The Office notes that:

- (1) Although the petition includes Sabato's last known home address, there is no indication that counsel ever attempted to contact Sabato at that address. Moreover, even if assuming Sabato no longer resides at that address, the Office was able to, through www.Lexis.com (Person Locator), locate a different address associated with Sabato.⁶
- (2) It is not clear whether Sabato ever received counsel's May 2, 2003 letter. However, there is no evidence that counsel provided Sabato with a copy of the entire application (specification including claims; drawings).

In view of the above, the Office is not able to conclude that a *bona fide* attempt has been made to present to Sabato a copy of the entire application (specification including claims; drawings) as required by 37 CFR 1.47. The petition is thus dismissed. The 5/13/03 Declaration is not accepted.

To prevent abandonment of this application,⁷ one of the following must be submitted within **TWO MONTHS** of the mailing date of this decision:⁸

- (1) an oath/declaration properly signed by all inventors, including Sabato;⁹
- or
- (2) a renewed §1.47(a) petition (no fee) that includes:

copy of the document evidencing that refusal must be made part of the statement of facts.)

⁴ 37 CFR 1.47(a); also MPEP section 409.03(e) (Rev. 1, Feb. 2003).

⁵ See supra note 3.

⁶ Copy of search result attached.

⁷ See 37 CFR 1.53(f) (If an application which has been accorded a filing date . . . does not include an oath or declaration . . . pursuant to §1.63 . . . , applicant will be notified and given a period of time within which to . . . file an oath or declaration . . . to avoid abandonment).

⁸ Unless proper extension(s) of time under 37 CFR 1.136(a) is (are) obtained.

⁹ A declaration indicating the claimed invention and all the inventors, but only signed by Sabato, would be sufficient for supplementing the 5/13/03 Declaration.

-proper statement(s)¹⁰ of facts establishing that a *bona fide* attempt was made to present to Sabato, at his last known address, a copy of the entire application (specification including claims; drawings), and that Sabato nevertheless refused to sign the declaration.

The renewed §1.47(a) petition should be addressed as follows:

by mail/by hand: Commissioner for Patents, USPTO
Office of Petitions
Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

by fax: (703) 308-6916
Attn: Office of Petitions

Finally, the Office acknowledges receipt with the petition of the \$130 petition fee and the \$130 surcharge for failure to submit an acceptable oath/declaration upon filing of the application.

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



RC Tang
Petitions Attorney
Office of Petitions

Attachment: www.Lexis.com search printout

¹⁰ **Statements based on hearsay will not be considered.**



Paper No. 8

BUCKLEY, MASCHOFF, TALWALKAR
& ALLISON LLC
5 ELM STREET
NEW CANAAN, CT 06840

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JUL 14 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Prasad et al. :
Application No. 10/334,248 :
Filed: December 31, 2002 :
Attorney Docket No. P14793 :

This decision concerns the July 7, 2003 "Response to Decision for Petition under 37 CFR 1.47(a)" which is being treated as a renewed petition under 37 CFR 1.47(a).

The petition is **DISMISSED as moot.**

The previous petition under 37 CFR 1.47(a), filed on May 13, 2003, was dismissed on June 2, 2003 for failing to show that one of the three inventors named in this application, Simon Sabato, could not be reached after diligent effort or refused to join in this application.

The instant renewed petition encloses a "Declaration and Power of Attorney for Patent Application" ("7/7/03 Declaration") that refers to the instant application and the proper inventorship, and is executed by Simon Sabato, rendering the renewed §1.47(a) petition subject to dismissal as moot. No fee is owed.

The 7/7/03 Declaration supplements the declaration submitted with the May 13, 2003 petition. The application is now complete.

Finally, the petition uses a correspondence address different from that in the PTO record. While a courtesy copy of the decision is being sent to the address indicated in the petition, all future correspondence on this application will be forwarded to the current address-of-record unless the PTO is properly instructed otherwise.

The application file is being 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

cc: Richard W. James, Esq.
25 Churchill Road
Pittsburgh, PA 15235



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BUCKLEY, MASCHOFF & TALWALKAR LLC
50 LOCUST AVENUE
NEW CANAAN, CT 06840

Mail Date: 04/21/2010

Applicant	: Ajith Prasad	: DECISION ON REQUEST FOR
Patent Number	: 7668948	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/334,248	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/31/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2048** 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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IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/20/2010

Applicant	: Genady Grabarnik	: DECISION ON REQUEST FOR
Patent Number	: 7596793	: RECALCULATION OF PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/334,254	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/31/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1912** 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.



IBM CORPORATION
3039 CORNWALLIS ROAD
DEPT. T81/B503
P O BOX 12195
RESEARCH TRIANGLE PARK, NC 27709

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FEB 27 2007

OFFICE OF PETITIONS

In re Application of	:	
John R. Hind et al	:	
Application No. 10/334,263	:	DECISION ON PETITION
Filed: December 31, 2002	:	
Attorney Docket No.	:	
RSW920020133US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 13, 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 5, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed June 2, 2006. Accordingly, the date of abandonment of this application is September 6, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$1,400 and the publication fee of \$300, (2) the petition fee of \$1,500; and (3) an adequate statement of unintentional delay. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 3218.

It is noted that an Information Disclosure Statement was filed on December 5, 2006, subsequent to the filing of the present petition to revive and payment of the issue fee. Accordingly, this application is being referred to Technology Center AU 2617 for proper treatment of the Information Disclosure Statement filed on December 5, 2006.


 Frances Hicks
 Petitions Examiner
 Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4-22-09

Paper No.: _____

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction for Appl. No.: 11334267 Patent No.: 7345041

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.

Valerie Jackson
Certificates of Correction Branch
703-308-9390 ext. 114

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- | | |
|--|---|
| <input type="checkbox"/> Approved | All changes apply. |
| <input type="checkbox"/> Approved in Part | Specify below which changes do not apply. |
| <input checked="" type="checkbox"/> Denied | State the reasons for denial below. |

Comments: The request is denied because the claim indicated (claim 2) is incorrect. Correction as requested of claim 3 is possible and would be approved.

LECRANE:lec

05/18/2010

PTOL-306 (REV. 7/03)

[Signature]

SPE

1623

Art Unit



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IBM Corporation - Lotus Development
Intellectual Property Law
One Rogers Street
Cambridge, MA 02142

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DEC 13 2006
OFFICE OF PETITIONS

In re Application of

Estrada, et al.

Application No. 10/334,269

Filed: December 31, 2002

Attorney Docket No. LOT920020036US1

:
:
:
DECISION ON PETITION
:
:

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed August 24, 2006.

The petition is **granted**.

This application was held abandoned January 25, 2006, after no reply was received to the non-final Office action mailed October 25, 2005. The notice set forth a shortened statutory period of reply of three-months from its mailing date. No response was received within the allowable period and the application became abandoned on January 25, 2006. Petitioner maintains that the non-final Office action was never received and provides a copy of the relevant docketing calendar as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as to prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center 2100, GAU 2165 processing of the amendment November 13, 2006, which is responsive to the non-final Office action re-mailed August 28, 2006

Questions 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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IBM CORP. (DHJ)
C/O DAVID H. JUDSON
15950 DALLAS PARKWAY
SUITE 225
DALLAS, TX 75248

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JUN 03 2008

OFFICE OF PETITIONS

In re Application of :
George Robert Blakley III, et. al. :
Application No. 10/334,284 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No. AUS920020413US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed on October 31, 2007, to revive the above-identified application.

The above application became abandoned for failure to reply to the final Office action mailed February 27, 2007. A Notice of Abandonment was mailed on September 6, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114 with the \$810 filing fee and an amendment; (2) the petition fee of \$1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 2137 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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Paper No. 6

MARSHALL, GERSTEIN & BORUN (MOTOROLA)
233 SOUTH WACKER DRIVE
SUITE 6300
CHICAGO IL 60606-6402

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APR 29 2004

In re Application of : **OFFICE OF PETITIONS**
Vasudevan, et al. : DECISION ON PETITION
Application No. 10/334,291 :
Filed: December 31, 2002 :
Atty. Dkt. No.: 29250/CE10496R :

This decision is in response to the petition filed under 37 CFR 1.181, to withdraw the holding of abandonment for the above-identified application, and alternatively under 37 CFR 1.137(a).

The petition under 37 CFR 1.181 is hereby **GRANTED**.

The petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

This application was held abandoned April 26, 2003, for failure to timely file a proper response to the Notice to File Missing Part(s) of Non-provisional Application ("Notice") mailed February 25, 2003. The Notice set a two (2) month shortened statutory period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely obtained. Notice of Abandonment was mailed February 6, 2004.

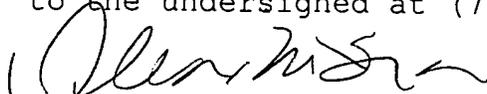
Petitioner argues that a response to the Notice was timely submitted April 18, 2003 in accordance with the Certificate of Mailing procedures outlined at 37 CFR 1.8. Petitioner has included a copy of the response to the Notice.

A review of the application file does not indicate receipt of the response purportedly submitted April 18, 2003, however, the response will be considered timely as it complies with the requirements of 37 CFR 1.8(b) in that (1) the Office was promptly informed of the previous timely mailing, (2) a copy of the previously submitted correspondence with certificate of mailing thereon has been supplied, and (3) statements attesting to the previous timely mailing have been submitted.

In view of the above, the Notice of Abandonment is hereby **VACATED** and the Notice of Abandonment is **WITHDRAWN**.

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) 305-0310.



Alesia M. Brown
Senior Petitions Attorney
Office of Petitions



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HOLLAND & KNIGHT
10 ST. JAMES AVENUE
BOSTON, MA 02116-3889

MAILED

MAY 12 2009

In re Application of	:	OFFICE OF PETITIONS
Hong Dai, et al.	:	
Application No. 10/334,296	:	DECISION ON PETITION
Filed: April 3, 2009	:	
Attorney Docket No.	:	
110595.00096/LOT920020061	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 3, 2009, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 11, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed September 11, 2008. Accordingly, the date of abandonment of this application is December 12, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$1510 and the publication fee of \$300, (2) the petition fee of \$1620; and (3) a proper statement of unintentional delay.

The petition is **GRANTED**.

There is no indication that petitioner has submitted a Part B-Fee(s) Transmittal form (PTOL-85). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached Fee(s) Transmittal form should be completed and returned to the Office of Data Management within **ONE MONTH** from the mail date of this decision.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline at (571) 272-4200.

This application is being referred to the Office of Data Management for processing into a patent.

April M. Wise
April M. Wise
Petitions Examiner
Office of Petitions



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120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

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DEC 04 2009

OFFICE OF PETITIONS

In re Application of :
Peter O. Luthi :
Application No. 10/334,318 : **ON PETITION**
Filed: December 31, 2002 :
Attorney Docket No. 96756 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 24, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). In view of the three (3) month extension of time filed June 24, 2009, via certificate of mailing, the date of abandonment of this application is June 25, 2009. A Notice of Abandonment was mailed October 1, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of \$810 and the submission required by 37 CFR 1.114, (2) the petition fee of \$1,620, and (3) a proper statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center AU 2431 for processing of the RCE and for appropriate action by the Examiner in the normal course of business in accordance with 37 CFR 1.114.

A handwritten signature in black ink, appearing to read "Chris Bottorff", with a stylized flourish extending to the right.

Chris Bottorff
Petitions Examiner
Office of Petitions



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6/9/05

In re application of	:	rdc
MOKOTO et al	:	
Serial Number: 10/334,335	:	DECISION ON
Filed: December 31, 2002	:	PETITION
For: ABSORBENT ARTICLE WITH BACKING SHEET,	:	
AND METHOD FOR MANUFACTURING THE	:	
BACK SHEET	:	

This is in response to the petition, filed April 8, 2005, requesting that Office Action mailed December 28, 2004 be remailed and the period for response to that Office Action be restarted. The petitioner asserts the Office Action was never received.

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action. A review of the application record and the petitioner's evidence indicates that the request has merit and is sufficient to establish that applicant did not receive the Office Action mailed December 28, 2004. The petition includes a statement that the Office Action was not received and attests to the fact that searches of file jacket and docket records have been made. A copy of the docket record where the non-received Office Action would have been entered, had it been received, is also attached and referenced.

Therefore, a copy of the Office Action of December 28, 2004 will be remailed and the period for response restarted as of the mail date thereof.

The petition is **GRANTED**.

It is noted that the petitioner also requests withdrawal of the terminal disclaimer filed on November 17, 2004. However, a separate petition under 37 CFR 1.182 must be filed with the fee set forth in § 1.17(h) for such a request.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Darby & Darby, P.C.
805 Third Ave.
New York, NY 10222



Paper No: 4

FOLEY & LARDNER
2029 CENTURY PARK EAST
SUITE 3500
LOS ANGELES CA 90067

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JUL 0 8 2003

OFFICE OF PETITIONS

In re Application of
Douglas J. Bonser et al.
Application No. 10/334,337
Filed: December 30, 2002
Attorney's Docket No. 039153-0654

ON PETITION

This is a decision on the petition filed June 28, 2003 under 37 CFR 1.10(d), requesting that the above-identified application be accorded a filing date of December 30, 2002, rather than the presently accorded filing date of December 31, 2002.

Petitioners request the earlier filing date on the basis that the application was deposited in Express Mail service on December 30, 2002, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of a United States Postal Service Express Mail Pickup Service Statement which includes Express Mail label no. EV060044030, the same Express Mail label number found on the application papers.

Paragraph (d) of 37 CFR 1.10 states that:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

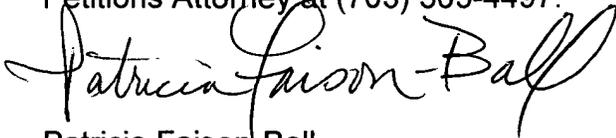
(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS. Any statement submitted in support of such a showing pursuant to this paragraph must be a verified statement if made by a person other than an employee of the USPS or a practitioner as defined in s 10.1(r) of this chapter.

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day." In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS."

The petition filed June 28, 2003, is accompanied by the corroborating evidence required by the rule. Accordingly, the petition is granted.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to December 30, 2002.

Telephone inquires regarding this matter should be directed to the undersigned Petitions Attorney at (703) 305-4497.

A handwritten signature in cursive script that reads "Patricia Faison-Ball". The signature is written in black ink and is positioned above the typed name.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



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Paper No. 4

FOLEY & LARDNER
2029 CENTURY PARK EAST
SUITE 3500
LOS ANGELES, CA 90067

COPY MAILED

JUL 2 5 2003

OFFICE OF PETITIONS

In re Application of :
Erb et al. :
Application No.10/334,361 : **DECISION ON PETITION**
Filed: December 30, 2002 :
Attorney Docket No. 039153-065 :

This is a decision on the "Petition to Correct Filing Date" pursuant to 37 CFR § 1.10(d)," filed July 3, 2003, requesting that the above-identified application be accorded a filing date of December 30, 2002, rather than the presently accorded filing date of December 31, 2002.

The petition is **GRANTED**.

Petitioner maintains that applicants properly deposited Express Mail Label No. EV060044009US and attached papers with the United States Postal Service (USPS), "Express Mail Post Office to Addressee", on December 30, 2002. However, the USPS incorrectly entered the "date-in" as December 31, 2002. Pursuant to 37 CFR 1.10(d), applicants petition the Commissioner to accord a filing date for the above-identified application as of the actual date of deposit with the USPS. In support thereof, petitioner submitted *inter alia* true copies of:

- the USPS "Post Office to Addressee" "Express Mail" mailing label, EV060044009US;
- the application transmittal letter for this application identifying as being transmitted the correspondence currently accorded a filing date of December 31, 2002; and
- a USPS Pickup Service Statement For Express Mail.

Under the circumstances of this case, it is concluded that the petition was filed promptly within the meaning of § 1.10(d)(1). The evidence of record further shows that the number of the "Express Mail" mailing label, EV060044009US, is on the correspondence of record presently accorded a filing date of December 31, 2002, and thus, was placed on the correspondence prior to the original mailing.

The USPS Service Statement provided bears a signature of a USPS

employee, but is illegible as to the handwritten pick-up time and date. Nonetheless, the USPS Service Statement bears a USPS postmark of December 30, 2002. Patent attorney Ronald Coslick attests to the Express Mail package having been picked up by the USPS employee on December 30, 2002.

Accordingly, petitioner has made a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day.

It is concluded that petitioner has shown that the "date-in" on the "Express Mail" mailing label was incorrectly entered by the USPS, and that the requested filing date, December 30, 2002, is the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup of the day. The proper date to be accorded this application is December 30, 2002, not December 31, 2002.

In view thereof, the petition is granted.

No petition fee is required. The petition fee submitted has been refunded to Deposit Account No. 50-0872, as authorized.

The application is being returned to the Office of Initial Patent Examination for further processing including correction of the filing date to December 30, 2002, and mailing of a corrected filing receipt.

Telephone inquiries specific to this matter may be directed to the undersigned at (703) 306-0251.



Charlema R. Grant
Petitions Attorney
Office of Petitions



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INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 05/05/2010

Applicant	: Kuljit S. Bains	: DECISION ON REQUEST FOR
Patent Number	: 7617356	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/334,374	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/31/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **446** 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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MOTOROLA INC
600 NORTH US HIGHWAY 45
W4 - 39Q
LIBERTYVILLE, IL 60048-5343

Mail Date: 04/20/2010

Applicant : Paul E. Gorday : DECISION ON REQUEST FOR
Patent Number : 7593718 : RECALCULATION of PATENT
Issue Date : 09/22/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/334,383 : OF WYETH AND NOTICE OF INTENT TO
Filed : 12/31/2002 : ISSUE CERTIFICATE OF CORRECTION
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1159** 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. 5/4

FOLEY & LARDNER
2029 CENTURY PARK EAST
SUITE 3500
LOS ANGELES CA 90067

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JUL 2 2 2003

In re Application of :
Avanzino et al. :
Application No. 10/334,387 :
Filed: December 30, 2002 :
Attorney Docket No. 039153-0652 :

OFFICE OF PETITIONS
DECISION ON PETITION

This is a decision on the "Petition to Correct Filing Date" pursuant to 37 CFR § 1.10(d)," filed July 3, 2003, requesting that the above-identified application be accorded a filing date of December 30, 2002, rather than the presently accorded filing date of December 31, 2002.

The petition is **GRANTED**.

Petitioner maintains that applicants properly deposited Express Mail Label No. EV060044012US and attached papers with the United States Postal Service (USPS), "Express Mail Post Office to Addressee", on December 30, 2002. However, the USPS incorrectly entered the "date-in" as December 31, 2002. Pursuant to 37 CFR 1.10(d), applicants petition the Commissioner to accord a filing date for the above-identified application as of the actual date of deposit with the USPS. In support thereof, petitioner submitted *inter alia* true copies of:

- the USPS "Post Office to Addressee" "Express Mail" mailing label, EV060044012US;
- the application transmittal letter for this application identifying as being transmitted the correspondence currently accorded a filing date of December 31, 2002; and
- a USPS Pickup Service Statement For Express Mail.

Under the circumstances of this case, it is concluded that the petition was filed promptly within the meaning of § 1.10(d)(1). The evidence of record further shows that the number of the "Express Mail" mailing label, EV060044012US, is on the correspondence of record presently accorded a filing date of December 31, 2002, and thus, was placed on the correspondence prior to the original mailing.

The USPS Service Statement provided bears a signature of a USPS

employee, but is illegible as to the handwritten pick-up time and date. Nonetheless, the USPS Service Statement bears a USPS postmark of December 30, 2002. Patent attorney Ronald Coslick attests to the Express Mail package having been picked up by the USPS employee on December 30, 2002.

Accordingly, petitioner has made a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day.

Having considered the evidence, it is concluded that petitioner has shown that the "date-in" on the "Express Mail" mailing label was incorrectly entered by the USPS, and that the requested filing date, December 30, 2002, is the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup of the day. The proper date to be accorded this application is December 30, 2002, not December 31, 2002.

In view thereof, the petition is granted.

No petition fee is required. The petition fee submitted has been refunded to Deposit Account No. 50-0872, as authorized.

The application is being returned to the Office of Initial Patent Examination for further processing including correction of the filing date to December 30, 2002, and mailing of a corrected filing receipt.

Telephone inquiries specific to this matter may be directed to the undersigned at (703) 305-0309.


Nancy Johnson
Petitions Attorney
Office of Petitions



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ONE OXFORD CENTRE, 38TH FLOOR
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PITTSBURGH, PA 15219

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OFFICE OF PETITIONS

In re Application of :
Rioja et al. : ON PETITION
Application No. 10/334,388 :
Filed: December 31, 2002 :
Atty Docket Number: 97-1229 DIV :

This is a decision on the Petition for Revival of the Application Under 37 CFR 1.137(a), filed March 22, 2006, to revive the above-identified application. The delay in treating this petition is regretted.

The petition under 37 CFR 1.137(a) 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 "Request for Reconsideration of 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 Notice to File Missing Parts of Nonprovisional Application ("Notice"), mailed February 4, 2003. The Notice set a two (2) month period for reply. No response having been received, the application became abandoned on April 5, 2003. A Notice of Abandonment was mailed June 7, 2004.

Applicant files the instant petition and provides that the application was unavoidably abandoned because this Office sent the Notice to an incorrect correspondence address.

Petition under 37 CFR 1.137(a) based upon unavoidable abandonment

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). The instant petition lacks items (1) and (3).

Petitioner must establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.

The general standard applied by the Office requires petitioner to establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.¹ 35 U.S.C. 41(c)(1) states, "The Commissioner may accept the payment of any maintenance fee ... at any time ... if the delay is shown to the satisfaction of the Commissioner to have been unavoidable." (emphasis added).

"In the specialized field of patent law, ... the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. His interpretation of those provisions is entitled to considerable deference." Rydeen

¹ The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA)1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir. 1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg, 849 F.2d 1422, 1425, 7 U.S.P.Q.2d (BNA) 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")).

"The critical phrase 'unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable' has remained unchanged since first enacted in 1861." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for "unavoidable" delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F.3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1787 (Fed. Cir. 1995) (citing In re patent No. 4,409,763, 7 U.S.P.Q.2d (BNA) 1798, 1800 (Comm'r Pat. 1990; Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982)). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which "requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business." In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)). However, "The question of whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case-by-case basis, taking all of the facts and circumstances into account."² Nonawareness of the content of, or a misunderstanding of, PTO statutes, PTO rules, the MPEP, or Official Gazette notices, does not constitute unavoidable delay.³ The statute requires a "showing"

² Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

³ See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119,

by petitioner. Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

Applicant is further advised that the Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987). Specifically, petitioner's delay caused by the actions or inactions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. 133 or 37 CFR 1.137(a). Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891). In re Mattullath, 38 App. D.C. 497, 514-15 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

Finally, a "delay (in responding) resulting from the lack of knowledge or improper application of the patent statute, rules of practice, or MPEP, [] does not constitute unavoidable delay." MPEP 711.03(c).

13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

Applicant's Assertion

Applicant asserts that abandonment of the application was unavoidable because this Office sent the Notice to an incorrect correspondence address.

A review of the file

A review of the application file reveals that the correspondence address appearing in the Application Data Sheet, filed with the application on December 31, 2002, differs from the correspondence address appearing in the oath/declaration and in the application transmittal form also filed with the application on December 31, 2002.

The MPEP provides that

applicants will often specify the correspondence address in more than one paper that is filed with an application, and the address given in the different places sometimes conflicts. Where the applicant specifically directs the Office to use non-matching correspondence addresses in more than one paper, priority will be accorded to the correspondence address specified in the following order: (A) Application data sheet (ADS); (B) application transmittal; (C) oath or declaration (unless power of attorney is more current); and (D) power of attorney. Accordingly, if the ADS includes a typed correspondence address, and the declaration gives a different address (i.e., the address associated with a Customer Number) as the correspondence address, the Office will use the typed correspondence address as included on the ADS. In the experience of the Office, the ADS is the most recently created document and tends to have the most current address. After the correspondence address has been entered according to the above procedure, it will only be changed pursuant to 37 CFR 1.33(a)(1).

Analysis and conclusion

As to item (3), Applicant has not provided an adequate showing of unavoidable delay. The correspondence address provided by applicant in the ADS was correctly identified by this Office as the correspondence address of record. The Notice was subsequently properly mailed to the correspondence address of record. It is the conclusion of this Office that a reasonable person in relation to their most important business would have ensured that the correspondence address provided in the ADS was a correct correspondence address.

In view of the above, the correspondence address in the petition differs from the correspondence address of record. Consistent with Office policy, a copy of this decision is being mailed to the address appearing in the petition; however, all future correspondence will be mailed to the correspondence address of record until proper correspondence address change has been filed with the Office.

Alternate venue

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee, currently \$750.00.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
 PO Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.



Derek L. Woods

Attorney
Office of Petitions

CC: INTELLECTUAL PROPERTY
ALCOA TECHNICAL CENTER,
BUILDING C
100 TECHNICAL DRIVE
ALCOA CENTER, PA 15069-0001



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PITTSBURGH, PA 15219

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OFFICE OF PETITIONS

In re Application of :
Rioja et al. :
Application No. 10/334,388 :
Filed: December 31, 2002 :
Title of Invention: ALUMINUM :
SHEET PRODUCTS HAVING IMPROVED :
FATIGUE CRACK GROWTH RESISTANCE :
AND METHODS OF MAKING SAME :

This is a decision in response to the Petition to Revive, filed June 29, 2006, 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 to File Corrected Application Papers (hereinafter "Notice"), mailed February 4, 2003, which set a two (2) month period for reply. No response having been received, the application became abandoned on April 5, 2003. A Notice of Abandonment was mailed June 7, 2004.

With the instant petition, Petitioner has filed a reply to the Notice. Accordingly, the petition is granted.

It is noted that Applicant has filed a Change of Correspondence Address executed by Alan G. Tower. Office records do not indicate that Mr. Tower is authorized to act in this application, nor is the Change of Correspondence Address accompanied by a Power of Attorney.

Office records reveal that the oath/declaration filed with the application did not list Mr. Tower or the law firm of Pietragallo, Bosick & Gordon as the attorneys of record. However, the Application Data Sheet filed with the application did list Mr. Tower and the law firm of Pietragallo, Bosick & Gordon as the correspondence address.

While it is Office policy to use the ADS when the oath/declaration and ADS contain non-matching correspondence addresses¹, the power to act in an application is established in a Power of Attorney. Here, Petitioner has failed to demonstrate that Mr. Tower is authorized to change the Correspondence Address

If Petitioner desires to receive further correspondence with respect to this application, a properly executed change of correspondence address must be filed. A courtesy copy of this Decision is being forwarded to Petitioner at the address appearing on the petition; however, all future correspondence will be sent to address of record until instructions to the contrary are received.

This application is being referred to the Office of Initial patent Examination for continued processing in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.


Derek L. Woods
Attorney
Office of Petitions

CC: ALCOA TECHNICAL CENTER
BUILDING C
100 TECHNICAL DRIVE
ALCOA CENTER, PA 15069

¹ See. MPEP 601.03



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Commissioner for Patents
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FOLEY & LARDNER
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SUITE 3500
LOS ANGELES, CA 90067

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AUG 26 2003

OFFICE OF PETITIONS

In re Application of :
Douglas J. Bonser et al :DECISION GRANTING FILING
Application No. 10/334,392 :DATE OF DECEMBER 30, 2002
Filed: December 30, 2002 :
Attorney Docket No. 039153-0653 :

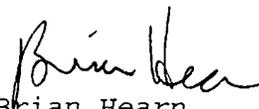
This is a decision on the petition under 37 CFR 1.10(d), filed June 28, 2003, requesting that the above-identified application be accorded a filing date of December 30, 2002, rather than the presently accorded filing date of December 31, 2002, which latter date appears on the copy of the Express Mail label accompanying the instant petition.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited on December 30, 2002 with a United States Postal Representative to be delivered by "Express Mail Post Office to Addressee" service. In support, petitioner has supplied a copy of a "Pickup Service Statement-Express Mail, Priority Mail, or Parcel Post" signed receipt bearing Express Mail label No. EV060044026 (the same Express Mail label number appears on the transmittal letter found on the certificate of mailing for the application papers) and a stamped date of pickup of December 30, 2002.

The showing 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.

In view of the above, the application is entitled to a filing date of December 30, 2002. The petition is **granted**.

Telephone inquiries specific to this decision on petition should be directed to Frances Hicks at (703) 305-8680.


Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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MARK A. LITMAN & ASSOCIATES, P.A.
YORK BUSINESS CENTER, SUITE 205
3209 WEST 76TH STREET
EDINA, MN 55435

COPY MAILED

AUG 30 2004

OFFICE OF PETITIONS

In re Application of :
Eric D. Morrison et al :
Application No. 10/334,398 :
Filed: December 31, 2002 :
Attorney Docket No. 456.02.017US1 :

ON PETITION

This is a decision on the petition, filed August 23, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

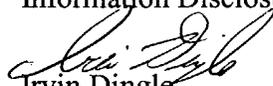
The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 26, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

The file will be forwarded to Technology Center AU 1756 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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Paper No. 4

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN VA 22102

MAIL

JAN 13 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of: :
Kevin Liga, et al. :
Application No. 10/334,406 :
Filed: December 31, 2002 :
For: TECHNIQUES FOR REINSERTION OF :
LOCAL MARKET ADVERTISING IN DIGITAL :
VIDEO FROM A BYPASS SOURCE :

DECISION ON REQUEST TO
WITHDRAW FROM RECORD

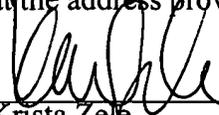
This is a decision on the request to withdraw as attorney/agent of record filed on October 28, 2003.

- A grantable request to withdraw as attorney/agent of record must:
- (1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
 - (2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
 - (3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
 - (4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED**.

All of the attorneys/agents of record listed in the Request are withdrawn.

All future correspondence will continue to be directed to the above address until such a time as a request for change of address is filed. A courtesy copy of this decision is being sent to petitioner at the address provided below.



Krista Zeje
Special Program Examiner
Technology Center 2600
Communications

cc: John T. Kennedy
DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET, SUITE 4700
DENVER, CO 80202-5647



**MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN, VA 22102**

COPY MAILED

DEC 13 2006

OFFICE OF PETITIONS

In re Application of

LIGA, et al.

Application No. 10/334,406

Filed: December 31, 2002

Attorney Docket No. 11152.00

:
:
:
:
:
:
:

**DECISION ON PETITION
TO WITHDRAW
FROM RECORD**

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 29, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, “[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]” More specifically, 37 CFR 10.40 states, “[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is” for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, “Application is being transferred to another attorney” does not meet any conditions set forth in 37 CFR 1040.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

There is no outstanding Office action that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6825.



Patricia Volpe
Petitions Examiner
Office of Petitions

cc: **Marc Kaufman, Esq.**
NIXON PEABODY LLP
401 9th Street, N.W.
Suite 900
Washington, D.C. 20004



MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN, VA 22102

COPY MAILED

MAY 30 2007

OFFICE OF PETITIONS

In re Application of	:	
Kevin Liga, et al.	:	
Application No. 10/334,406	:	DECISION ON PETITION
Filed: December 31, 2002	:	TO WITHDRAW
Attorney Docket No. 11152.00	:	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 January 17, 2007.

The request is **NOT APPROVED**.

A review of the file record indicates that Adam Keser 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 inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
April M. Wise
Petitions Examiner
Office of Petitions

cc: MARC KAUFMAN, ESQ.
NIXON PEABODY LLP
401 9TH STREET NW
SUITE 900
WASHINGTON, DC 20004



SCULLY SCOTT MURPHY & PRESSER, PC
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY NY 11530

COPY MAILED

MAR 30 2007

OFFICE OF PETITIONS

In re Patent No. 6,818,285 :
Issued: November 16, 2004 :
Application No. 10/334,413 :
Filed: December 31, 2002 :
Attorney Docket Number: YOR920020202US :
(15859) :

ON PETITION

This is a decision on the petition, filed December 15, 2006, 37 CFR 3.81(b)¹, to correct the assignee's name on the front of the Patent.

The petition is **GRANTED**.

Petitioner states that the name of the second assignee, DOW GLOBAL TECHNOLOGIES INC., was inadvertently not included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the name of the second assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

¹ See Official Gazette of June 22, 2004

Office assignment records reflect that DOW GLOBAL TECHNOLOGIES INC., is also an assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

The petition fee and the fee for the certificate of correction have been properly charged to deposit account no. is patent.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This file is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.



Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

FEB 26 2008

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MCDERMOTT WILL & EMERY LLP
4370 LA JOLLA VILLAGE DRIVE , SUITE 700
SAN DIEGO, CA 92122

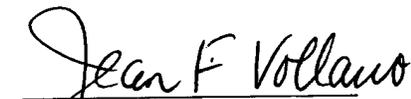
In re Patent No.6,890,764 MARK S. CHEE et al
Issue Date: May 10, 2005
Appl No.: 10/334,416
Filed: December 31, 2002
For: Correction of Inventorship

:
: **DECISION GRANTING**
: **PETITION**
: 37 CFR 1.324
:
:
:
:

This is a decision on the petition filed February 21, 2008 , to correct inventorship under 37 CFR 1.324. The petition has complied with all the requirements 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.


Jean F. Vollano
Quality Assurance Specialist
Technology Center 1600



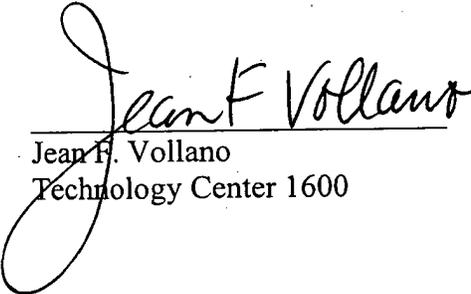
UNITED STATES PATENT AND TRADEMARK OFFICE

FEB 26 2008

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DATE: February 27, 2008
TO: Certificates of Correction Branch
FROM: Jean F. Vollano
Technology Center 1600
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. US 6,890,764 as specified on the attached Certificate.



Jean F. Vollano
Technology Center 1600

FEB 26 2008

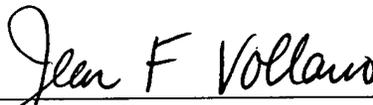
UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. US 6,890,764
Patented: May 10, 2005

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Mark S. Chee
Steven M. Barnard
Chanfeng Zhao
Anthony W. Czarnik



Jean F. Vollano
Quality Assurance Specialist
Technology Center 1600



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Paper No. 110104

NOV 19 2004

DUANE MORRIS LLP
100 College Rd. West, Suite 100
Princeton, NJ 08540

In re Application of: :
Tietjen :
Serial No.: 10/334,434 :
Filed: December 31, 2002 :
Attorney Docket No.: **LMC-38-CIP** :

DECISION ON REQUEST TO WITHDRAW
FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 6, 2004.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by Paul A. Schwarz, on behalf of himself and all the attorneys/agents of record. The request is **APPROVED**.

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed Plevy & Howard, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Lissi Marquis at (571) 272-1596.

Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Plevy & Howard
600 North Easton Rd.
Willow Grove, PA 19090

BEST AVAILABLE COPY



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Paper No.

BRINKS HOFER GILSON & LIONE
P.O. Box 10395
Chicago IL 60610

MAILED

JUN 21 2010

OFFICE OF PETITIONS

In re Patent No. 7,489,928 : DECISION ON REQUEST
Smith : FOR
Issue Date: February 10, 2009: RECONSIDERATION OF
Application No. 10/334,472 : PATENT TERM ADJUSTMENT
Filed: December 31, 2002 : and
Atty Docket No. 10723/29 : NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on April 9, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by **five hundred sixty-four (564)** days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **five hundred sixty-three (563)** days.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on January 1, 2005 and ends on September 20, 2006, the day before the RCE was filed. See 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 263 not 264 days. Accordingly, the patent term adjustment is now increased to 563 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or

patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred sixty-three (563) 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

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,489,928 B2

DATED : February 10, 2009

DRAFT

INVENTOR(S) : Smith

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 300 days

Delete the phrase "by 300 days" and insert – by 563 days--



BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

COPY MAILED

MAY 15 2003

OFFICE OF PETITIONS

In re Application of
Lekare
Application No. 10/334,487
Filed: December 30, 2002
Attorney Docket No. 1718-0206P

:
:
: DECISION GRANTING
: PETITION
:

This is a decision on the petition filed April 22, 2003, to accord the above-identified application a filing date of December 30, 2002.

On December 30, 2002, the application was deposited.

On February 19, 2003, the Office of Initial Patent Examination mailed a Notice stating that drawings were missing and that a filing date would be accorded upon receipt of drawings.

In response, the present petition alleges drawings were inadvertently omitted. However, the application transmittal sheet incorporated by reference the entire disclosure of the parent application. The petition states the drawings filed with the petition appeared in 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 drawings were present in the Office on December 30, 2002, albeit in the file of another application, i.e., application No. 09/831,981. 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**. The copy of the drawings submitted with the petition will be used for examination purposes.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 30, 2002, using the application papers filed on December 30, 2002, and the copy of the drawings filed on April 22, 2003.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.


Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions



Paper No. 6

COPY MAILED

JUN 17 2003

OFFICE OF PETITIONS

COATS & BENNETT, PLLC
P. O. BOX 5
RALEIGH, NC 27602

In re Application of :
Yoon, et al. :
Application No. 10/334,500 : DECISION GRANTING PETITION
Filed: December 31, 2002 :
Attorney Docket No. 4740-168 :

This is a decision on the petition filed March 11, 2003, requesting that the above-identified application retain the filing date of December 31, 2002.

The petition is **granted**.

The application was filed on December 31, 2002. On February 20, 2003, the Office of Initial Patent Examination mailed a "Notice of Missing Parts of Nonprovisional Application" (the "Notice") stating that Figure 7, as described in the specification, appeared to have been omitted from the application.

Petitioner responded with the instant petition wherein petitioner argued that Figure 7 described in the specification was included with the application papers originally filed on December 31, 2002, and were received by the Office.

A review of Office records revealed that the drawings from the above-identified application were inadvertently placed in application serial number 10/334,505.

It is obvious that the application was complete on the date of deposit. Since the drawings were in fact present in the Office on December 31, 2002, the application will retain the currently accorded filing date of December 31, 2002, including the seven (7) sheets of drawings containing Figures 1- 7.

The seven (7) sheets of drawings filed December 31, 2002, in application number 10/334,505 will be removed and transferred from the above-identified application. This application will be re-processed with the seven sheets of transferred drawings filed December 3, 2002.

In view of the above, the Notice mailed February 20, 2003, relative to the omitted drawings only, was mailed in error and is hereby withdrawn.

No petition fee is required and the fee of \$130.00 remitted will be refunded, in due course.

The application file is being forwarded to the Office of Initial Patent Examination for re-processing with a filing date of December 31, 2003, using the seven sheets of drawings transferred, containing Figures 1-7 filed on December 31, 2002, and correction of Office records to indicate that seven sheets of drawings were filed on that date.

Any inquiries related to this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (703)305-0010.

Kenya A. McLaughlin
Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Beverly M. Flanagan
Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions



COATS & BENNETT, PLLC
1400 CRESCENT GREEN, SUITE 300
CARY NC 27518

COPY MAILED

MAY 22 2009

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,403,505 :
Issued July 22, 2008 :
Application No. 10/334,500 :
Filed: December 31, 2002 :
Attorney Docket Number: 4740-168 :

This is a decision on the petition, filed under 37 CFR 1.323 on March 27, 2009, to correct the assignee's information on the front of the Patent.

The petition is **DISMISSED**.

Petitioner seeks to have the face of the patent include residence date for the assignee which was inadvertently omitted from the Fee(s) Transmittal form PTOL-85(b) at the time the issue fee was paid.

Petitioner is advised that while a certificate of correction, and fee, has been provided, the correction to assignee information cannot be corrected without a petition under 1.183 waiving the requirements under 37 CFR 3.81,(b)¹.

37 CFR 3.81(b), effective June 25, 2004, reads:

After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The petition therefore is not grantable.

¹ See Official Gazette of June 22, 2004

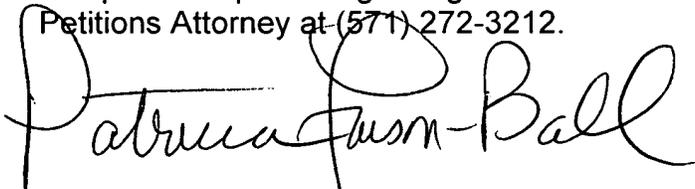
Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136. The application will be retained in the Office of Petitions for **TWO (2) MONTHS** to await petitioner's reply to this decision.

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
 Office of Petitions

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink that reads "Patricia Faison-Ball". The signature is written in a cursive style with a large, looped initial "P".

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Karl H. Koster
5880 Pine Brook Road, N.E.
Atlanta GA 30328

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FEB 13 2008

OFFICE OF PETITIONS

In re Application of :
KARL H. KOSTER :
Application No. 10/334,538 : DECISION ON PETITION
Filed: 01/01/2003 :
Attorney Docket No. KOSTK-2 :

This is a decision on the petition entitled "WITHDRAWAL OF PETITION TO REVIVE ABANDONED APPLICATION," filed December 14, 2007, which is being treated as a petition under 37 CFR 1.182. This is also in response to the "PETITION TO REVIVE ABANDONED APPLICATION UNDER 37 C.F.R. 1.137(a) ON BASIS OF UNAVOIDABLE ABANDONMENT, OR ALTERNATIVELY, UNDER 37 C.F.R. 1.137(b) ON BASIS OF UNINTENTIONAL ABANDONMENT," filed November 9, 2007.

On January 25, 2006, the Office mailed a final Office action, which set a three-month shortened statutory period to reply. No extensions of the time period were obtained pursuant to 37 CFR 1.136(a). Accordingly, the application became abandoned on April 26, 2006. On October 2, 2006, the Office mailed a Notice of Abandonment.

On November 9, 2007, practitioner, Reginald J. Hill submitted a "PETITION TO REVIVE ABANDONED APPLICATION UNDER 37 C.F.R. 1.137(a) ON BASIS OF UNAVOIDABLE ABANDONMENT, OR ALTERNATIVELY, UNDER 37 C.F.R. 1.137(b) ON BASIS OF UNINTENTIONAL ABANDONMENT" on behalf of the assignee/petitioner, accompanied by a request for an extension of time for response within the third month, a Request for Continued Examination (RCE), and an amendment. On November 30, 2007, petitioner filed a Power of Attorney and a Correspondence Address Indication Form (power of attorney), revoking all previous powers of attorney, appointing all practitioners associated with Customer Number 02574, and changing the correspondence address to the address

associated with that Customer Number. On December 31, 2007, the Office mailed a Notice Regarding Power of Attorney, stating that the power of attorney was not accepted because it was filed by the assignee and without the certificate required by 37 CFR 3.73(b).

On December 14, 2007, petitioner filed the present petition under 37 CFR 1.182, requesting that the Office withdraw the Petition To Revive Abandoned Application Under 37 C.F.R. 1.137(a) On Basis Of Unavoidable Abandonment, Or Alternatively, Under 37 C.F.R. 1.137(b) On Basis Of Unintentional Abandonment (petition to revive) of November 9, 2007. As no decision on the merits of the petition to revive has been reached, petitioner may withdraw the petition. Accordingly, the petition to revive is dismissed as moot, and the application will remain abandoned. The Office will not take any further review of the petition to revive the application filed on November 9, 2007.

In view of the abandonment status of the application, the RCE filed on November 9, 2007, is considered improper. Thus, the \$810.00 RCE fee will be refunded to the Deposit Account.

As to the fee for filing the petition to revive, the Office notes:

[T]he phrase '[o]n filing' in 35 U.S.C. 41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ('[t]he fees set forth in this section are due on filing the petition'). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(l) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.

MPEP 711.03(c)(III)(B).

Accordingly, the Office lacks the discretion to refund the \$510.00 fee as it is required by statute on filing the petition regardless of the disposition of the petition.

In summary, the petition under 37 CFR 1.182 is granted to the extent that the petition to revive filed on November 9, 2007, is withdrawn.

The Office notes that petitioner filed a request for an extension of time for response within the third month and fee on November 9, 2007. Pursuant to 37 CFR 1.136, a request for an extension of time must be filed before the expiration of the maximum period obtainable for reply to avoid abandonment. In this instance, petitioner filed the request for an extension of time after the maximum statutory period for reply had expired. Therefore, the \$1,050.00 extension of time fee is inappropriate and will be refunded to the Deposit Account.

As indicated in the correspondence of December 31, 2007, the Office has not accepted the revocation and appointment of power of attorney or the change of correspondence address. Therefore, the Office will mail a courtesy copy of this decision to the address listed on the petition. However, the Office will continue to send all future correspondence to the address of record until the assignee submits a Statement Under 37 CFR 3.73(b) as requested.

The \$400.00 fee for filing the present petition under 37 CFR 1.182 will be charged to the Deposit Account, as authorized.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Cc: Reginald J. Hill
Jenner & Block LLP
330 North Wabash
Chicago, IL 60611



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

IBM CORP. (DHJ)
c/o DAVID H. JUDSON
15950 DALLAS PARKWAY
SUITE 225
DALLAS TX 75248

COPY MAILED

JAN 1 2 2007

OFFICE OF PETITIONS

In re Application of :
Blakley et al. :
Application No. 10/334,539 : **ON PETITION**
Filed: December 31, 2002 :
Attorney Docket No. AUS920020412US1 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 20, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 2100 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.


Liana Walsh
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. B x 1450
Alexandria, VA 22313-1450
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Paper No. 5

PETER F. CORLESS
EDWARDS & ANGELL LLP
P.O. BOX 9169
BOSTON, MA 02209

COPY MAILED

JUL 21 2003

OFFICE OF PETITIONS

NOTICE

In re Application of :
Ravin Rea et al :
Application No. 10/334,565 :
Filed: December 30, 2002 :
Attorney Docket No. 58013 (47992) :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center 1700.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



Paper No. 4

RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS MI 48304-0610

COPY MAILED

MAY 20 2003

OFFICE OF PETITIONS

In re Application of :
Daniel E. Banks :
Application No. 10/334,600 : DECISION DISMISSING
Filed: 2 January, 2003 : PETITION
Attorney Docket No. 60680-1654 :

This is a decision on the petition styled under 37 CFR 1.182 filed on 10 March, 2003, which is treated as a petition under 37 CFR 1.10 requesting that the above-identified application be accorded a filing date of 31 December, 2002, instead of the presently accorded filing date of 2 January, 2003.

The petition is **DISMISSED**.

Petitioners request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on 31 December, 2002, pursuant to the requirements of 37 CFR 1.10.

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.¹ (emphasis added)

Paragraph (d) of 37 CFR 1.10 states that:

¹See 37 CFR 1.6(a).

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. Any statement submitted in support of such a showing pursuant to this paragraph must be a verified statement if made by a person other than an employee of the USPS or a practitioner as defined in § 10.1(r) of this chapter.

The petition lacks the showing required by item (3) above. At the outset, it is noted that petitioners have not provided a true copy of the "Express Mail" customer label nor explained why a copy of the Express Mail customer label showing the "date in" has not been provided. Any renewed petition must be accompanied by a copy of the Express Mail label showing the "date in" as completed the USPS.

Furthermore, petitioners have not presented any corroborating evidence that the correspondence was deposited in Express Mail service prior to the last scheduled pickup for that day. While petitioners have presented a copy of an Express Mail log, it is unclear whether the mail log was made before or after mailing and within one business day of deposit. It is further noted that the mail log contains the initials "KLM" but the "Declaration of Delivery of Express Mail Package" was made by petitioner's

registered patent attorney Michael B. Stewart. Thus, it is unclear whether the mail log was made by a person with first hand knowledge of the deposit in Express Mail.

Petitioner may provide evidence that came into being after deposit and within one business day of deposit of the application in Express Mail. Such evidence may include a mail log with an entry made after the application was deposited in Express Mail, or a letter to the client sent after the mailing of the application confirming the mailing of the application. The declaration by attorney Stewart, however, was made more than one business day after the alleged deposit of the application in Express Mail on 31 December, 2002, and recites only that the application was deposited in Express Mail "before midnight" on 31 December, 2002. There is no showing, however, that the application was deposited as Express Mail prior to the *last scheduled pickup* on 31 December, 2002. The mere fact that the application was received by the USPTO on 2 January, 2003, does not establish that the application was deposited in Express Mail on 31 January, 2002, or on any other date.,

The Office further notes that petitioner has included a letter from the USPS, dated 24 January, 2003, stating that an Express Mail shipment bearing item number EV078879074US (the same Express Mail item number located on the itemized application transmittal sheet deposited with the original application papers) was delivered on 2 January, 2003. However, the USPS letter does not establish when the Express Mail item was deposited with the USPS. It is suggested that petitioner request a letter from the USPS verifying the date the application was deposited with the USPS. If petitioner can provide evidence from the USPS showing deposit of the application on 31 December, 2002 (i.e., an Express Mail Corporate Account Mailing Statement or letter stating that the application was accepted by the USPS on 31 December, 2002), then petitioner will have established that the application is entitled to a filing date of 31 December, 2002.

Accordingly, the petition is dismissed.

The application file will be retained in the Office of Petitions for TWO (2) MONTHS to await petitioner's reply to this decision. If no reply is received within two (2) months, the application will be forwarded to the Office of Initial Patent Examination for further processing with the presently accorded filing date of 2 January, 2003.

Application No. 10/334,600

4

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (703) 308-6916
 Attn: Office of Petitions

By hand: Office of Petitions
 Crystal Plaza Four, Suite 3C23
 2201 South Clark Place
 Arlington, VA

Telephone inquiries may be directed to the undersigned at 703-308-6918.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant : Heather Maria Hinton : DECISION ON REQUEST FOR
Patent Number : 7587491 : RECALCULATION of PATENT
Issue Date : 09/08/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/334,609 : OF WYETH AND NOTICE OF INTENT TO
Filed : 12/31/2002 : ISSUE CERTIFICATE OF CORRECTION
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1096** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 05/17/2010

Applicant : Heather Maria Hinton : NOTICE CONCERNING IMPROPER
Patent Number : 7587491 : CALCULATION OF PATENT TERM
Issue Date : 09/08/2009 : ADJUSTMENT BASED UPON USPTO
Application No : 10/334,609 : IMPROPERLY MEASURING REDUCTION
Filed : 12/31/2002 : 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 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 **1131** 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).



Paper No. 4

FITCH, EVEN, TABIN & FLANNERY
SUITE 1600
120 SOUTH LASALLE STREET
CHICAGO, IL 60603-3406

COPY MAILED

MAY 21 2003

In re Application of
Leizerovich et al.
Application No. 10/334,619
Filed: December 31, 2002
Attorney Docket No. CE10213J/78088

OFFICE OF PETITIONS
ON PETITION

This decision concerns the April 22, 2003 petition which, in conjunction with a concurrently filed "Response to Notice of Omitted Item(s) in a Nonprovisional Application," in effect requests that the April 4, 2003 "Notice of Omitted Item(s) in a Nonprovisional Application" for the above-referenced application ("4/4/03 Notice") be withdrawn.

The petition is **GRANTED**.

The application was filed on December 31, 2002. As indicated in the 4/4/03 Notice, a filing date had been accorded this application, but a drawing (Figure 3) described in the specification appeared to have been omitted from the filed application. The petition then followed.

The petition contends that the allegedly omitted Figure 3 was filed with the other application papers on December 31, 2002. In support, the petition is accompanied by a copy of Applicants' postcard receipt indicating receipt by the Office of, *inter alia*, 5 sheets of formal drawings for this application on that date. The postcard receipt identifies the application by inventor name and title of invention. The petition also encloses a copy of the Figure 3 (on sheet 3/5) allegedly filed on December 31, 2002.

The Office file for this application includes 4 sheets of drawings containing Figures 1 (sheet 1/5), 2 (sheet 2/5), 4-5 (sheet 4/5), and 6 (sheet 5/5), but not a Figure 3 or a sheet 3/5. Based on the information contained in Applicants' postcard receipt, the Office concludes that the sheet of drawing containing Figure 3 had been filed on December 31, 2002, but was later misplaced. The petition is thus granted.

The 4/4/03 Notice is hereby withdrawn. The application is now complete.

No petition fee is owed. The \$130 petition fee has been credited to Deposit Account No. 06-1135 as authorized in the instant petition.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 31, 2002, using the papers filed on that date and supplemented with the Figure 3 submitted with the instant 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.


Beverly M. Flanagan
Supervisory 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

**WAGNER, MURABITO & HAO LLP
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE, CA 95113**

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AUG 02 2005

OFFICE OF PETITIONS

In re Application of :
Ditzel et al. :
Application No. 10/334,638 :
Filed: December 31, 2002 :
Attorney Docket No. TRAN-P129 :

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 1, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed December 27, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on March 28, 2005.

Petition submitted \$1330.00 towards payment of the petition fee. However, the petition fee is \$1500.00. Accordingly, an additional \$170.00 was charged to petitioner's deposit account as authorized.

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 2800 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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LEXMARK INTERNATIONAL, INC.
INTELLECTUAL PROPERTY LAW DEPARTMENT
740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON, KY 40550-0999

Mail Date: 04/20/2010

Applicant	: Christopher Alan Adkins	: DECISION ON REQUEST FOR
Patent Number	: 7589850	: RECALCULATION OF PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/334,660	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/30/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1081** 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.



FISH & RICHARDSON, PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO, CA 92122

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SEP 04 2003

OFFICE OF PETITIONS

In re Application of
Neil Wester
Application No. 10/334,680
Filed: December 30, 2002
For: THERMIONIC-CATHODE FOR PRE-
IONIZATION OF AN EXTREME
ULTRAVIOLET (EUV) SOURCE SUPPLY

:
:
: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(b)
:
:

This is in response to the petition under 37 CFR 1.47(a), which has been treated as a petition under 37 CFR 1.47(b), filed June 18, 2003.

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(b)" 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 December 30, 2002 without an executed oath or declaration and naming Neil Wester as the sole inventor.

Accordingly, on February 14, 2003, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, a filing fee, and a surcharge for their late filing.

In response, on June 18, 2003, the instant petition, filing fee, surcharge and two (2) month extension of time were filed.

A grantable petition under 37 CFR 1.47(b) requires:

- (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
- (2) an acceptable oath or declaration;
- (3) the petition fee;
- (4) a statement of the last known address of the non-signing inventor;
- (5) proof of proprietary interest; and
- (6) proof of irreparable damage.

Applicant lacks items (2) and (5), as set forth above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The oath or declaration has not been found after a search of the papers filed June 18, 2003 and the application file. As such, the petition must be dismissed.

As to item (5), Rule 47 applicant failed to provide proof that Intel Corporation, has sufficient proprietary interest in the subject matter to justify the filing of the application (see MPEP 409.03(f)). Acceptable proof would include a copy of the employment agreement between the non-signing inventor and the Rule 47(b) applicant (Intel Corporation), a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 47(b) applicant, or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 47(b) applicant.

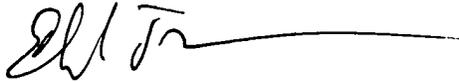
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 Box 1450
 Alexandria, VA 22313

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA

Telephone inquiries should be directed to the undersigned at
(703) 306-9200.



Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office



FISH & RICHARDSON, PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO, CA 92122

COPY MAILED

SEP 24 2003

OFFICE OF PETITIONS

In re Application of	:	
Neil Wester	:	
Application No. 10/334,680	:	DECISION REFUSING STATUS
Filed: December 30, 2002	:	UNDER 37 CFR 1.47(b)
For: THERMIONIC-CATHODE FOR PRE-	:	
IONIZATION OF AN EXTREME	:	
ULTRAVIOLET (EUV) SOURCE SUPPLY	:	

This is in response to the "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," filed September 15, 2003.

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(b)" 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).

A grantable petition under 37 CFR 1.47(b) requires:

- (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
- (2) an acceptable oath or declaration;
- (3) the petition fee;
- (4) a statement of the last known address of the non-signing inventor;
- (5) proof of proprietary interest; and
- (6) proof of irreparable damage.

Applicant lacks item (2), as set forth above.

An oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. In addition to the non-signing inventor's signature block, the declaration must be signed by an officer of the corporation (president, vice-president, secretary, treasurer or Chief Executive Officer) on behalf of and as agent for the non-signing inventor. The officer must identify his/her title in the declaration. If the declaration is not signed by an officer of the corporation, then proof of authority of the person signing on behalf of the corporation must be submitted. See MPEP 409.03(b). Additionally, the declaration submitted September 15, 2003, does not contain the non-signing inventor's mailing and/or residence address.

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) 308-6916
 Attn: Office of Petitions

By hand: Office of Petitions
 2201 South Clark Place
 Crystal Plaza 4, Suite 3C23
 Arlington, VA

Telephone inquiries should be directed to the undersigned at (703) 306-9200.



Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office



FISH & RICHARDSON, PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO, CA 92122

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OCT 21 2003

OFFICE OF PETITIONS

In re Application of :
Neil Wester :
Application No. 10/334,680 : DECISION GRANTING PETITION
Filed: December 30, 2002 : UNDER 37 CFR 1.47(b)
For: THERMIONIC-CATHODE FOR PRE- :
IONIZATION OF AN EXTREME :
ULTRAVIOLET (EUV) SOURCE SUPPLY :

This is in response to the "Petition Under 37 CFR 1.47(b)," filed October 10, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor cannot be located. Specifically, the declaration of facts of Kenyon S. Jenckes establishes that the inventor was presented the application papers, however, could not be located at his forwarding address or forwarding phone number to sign the declaration. In addition, petitioner has shown that Intel Corporation has a proprietary interest in the above-identified application with the copy of the employment agreement showing that the inventor had an obligation to assign any patent rights to Intel Corporation. The petition fee has been paid. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and demonstrated that petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status and the Office of Initial Patent Examination is authorized to

- (1) accept this application under Rule 1.47(b);
- (2) process the application with the inventor being Neil Wester and with the indication that the application was filed by Intel Corporation as the party in interest under 35

U.S.C. § 118, using the Declaration filed on October 10, 2003; and

(3) mail a filing receipt with a filing date of December 30, 2002.

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 Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this communication should 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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

NEIL WESTER
9727 FM 1826 #25
AUSTIN, TX 78737

COPY MAILED

OCT 21 2003

OFFICE OF PETITIONS

In re Application of
Neil Wester

Application No. 10/334,680

Filed: December 30, 2002

For: THERMIONIC-CATHODE FOR PRE-IONIZATION OF AN EXTREME ULTRAVIOLET
(EUV) SOURCE SUPPLY

Dear NEIL WESTER:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As 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)306-9200. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

FISH & RICHARDSON, PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO, CA 92122



Paper No. 8

MACPHERSON KWOK CHEN & HEID LLP
1762 TECHNOLOGY DRIVE, SUITE 226
SAN JOSE, CA 95110

COPY MAILED

JAN 07 2004

OFFICE OF PETITIONS

In re Application of
Agarwal et al.
Application No. 10/334,683
Filed: December 31, 2002
Attorney Docket No. M-15180
Title of Invention: NARROWBAND NOISE
MITIGATION IN LOCATION-DETERMINING
SIGNAL PROCESSING

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR § 1.47(a), filed December 1, 2003.

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 31, 2002, without an executed oath or declaration. Accordingly, on April 9, 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 June 9, 2003. A petition filed under 37 CFR 1.47 was dismissed on September 4, 2003.

In reply, applicant filed this renewed petition, and a partially executed declaration. To make the reply timely, a one (1) month extension of time was also submitted.

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), the declaration submitted is not in compliance with 37 CFR 1.63. Rule 47 applicant failed to provide the citizenship and mailing addresses of all of the inventors pursuant to 37 CFR 1.63 (a)(3) and (c)(1). This includes the citizenship and the mailing address of non-signing inventor Sahai. Petitioner must present a newly executed declaration to cure the defects outlined above.

The Power of Attorney and change of correspondence address has been entered and made 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

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

enclosures



Paper No. 12

MACPHERSON KWOK CHEN & HEID LLP
1762 TECHNOLOGY DRIVE, SUITE 226
SAN JOSE CA 95110

COPY MAILED

MAR 12 2004

In re Application of
Nainesh Agarwal, Anant Sahai and John
Tsitsiklis
Application No. 10/334,683
Filed: December 31, 2002
Attorney Docket Number: M-15180
Title of Invention: NARROWBAND NOISE
MITIGATION IN LOCATION-DETERMINING
SIGNAL PROCESSING

OFFICE OF PETITIONS
DECISION GRANTING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed March 5, 2004.

The petition is GRANTED.

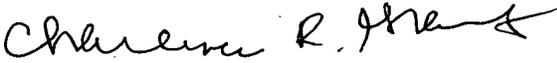
Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application was sent to non-signing inventor's last known address. Sufficient evidence has been presented to establish that non-signing inventor 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
Petitions Attorney
Office of Petitions



RECEIVED

MAR 08 2004

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OFFICE OF PETITIONS

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 8

MACPHERSON KWOK CHEN & HEID LLP
1762 TECHNOLOGY DRIVE, SUITE 226
SAN JOSE, CA 95110

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JAN 07 2004

OFFICE OF PETITIONS

In re Application of
Agarwai et al.
Application No. 10/334,683
Filed: December 31, 2002
Attorney Docket No. M-15180
Title of Invention: NARROWBAND NOISE
MITIGATION IN LOCATION-DETERMINING
SIGNAL PROCESSING

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR § 1.47(a), filed December 1, 2003.

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 31, 2002, without an executed oath or declaration. Accordingly, on April 9, 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 June 9, 2003. A petition filed under 37 CFR 1.47 was dismissed on September 4, 2003.

In reply, applicant filed this renewed petition, and a partially executed declaration. To make the reply timely, a one (1) month extension of time was also submitted.

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), the declaration submitted is not in compliance with 37 CFR 1.63 . Rule 47 applicant failed to provide the citizenship and mailing addresses of all of the inventors pursuant to 37 CFR 1.63 (a)(3)and (c)(1). This includes the citizenship and the mailing address of non-signing inventor Sahai. Petitioner must present a newly executed declaration to cure the defects outlined above.

The Power of Attorney and change of correspondence address has been entered and made 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

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

enclosures



Paper No. 5

PERKINS COIE LLP
PATENT-LA
PO BOX 1208
SEATTLE, WA 98111-1208

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JUN 16 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Davis et al. :
Application No. 10/334,688 :
Filed: December 30, 2002 :
Attorney Docket No. 54008.8037.US02 :
P01-0040 :

This decision concerns the May 23, 2003 petition under 37 CFR 1.47(a).¹

The petition is **DISMISSED**.

Three inventors are named in this application which, upon filing, did not include an oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on February 19, 2003, giving Applicants an extendable 2-month period to submit, *inter alia*, a properly executed oath/declaration.² The instant petition then followed, stating that one of the joint-inventors, Daniel P. Bexten (“Bexten”), has refused to sign the declaration, and requesting that the signing inventors be allowed to file this application on behalf of themselves and Bexten.

The available inventors may file the application on behalf of themselves as well as Bexten, provided that a *bona fide* attempt has been made to present to Bexten, for review and signature, a copy of the **entire application (specification including claims; drawings)**,³ and that **the latter refuses to join in this application**.⁴

¹ Including a request for a 1-month extension of time and the \$110 extension-of-time fee.

² Also missing were the application basic filing fee and the extra claims fee.

³ MPEP section 409.03(d) (Rev.1, Feb. 2003) REFUSAL TO JOIN (A refusal . . . to sign . . . when the inventor[’s representative] has not been presented with the application papers does not itself suggest that [he] is refusing to join in the application unless it is clear that [he] understands exactly what he is being asked to sign and refuses to accept the application papers.); also citing *In re Gray*, 115 U.S.P.Q. 80 (Comm’r Pat. 1956) (It is reasonable to require that the inventor[’s representative] be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that [he] is apprised of the application to which the oath/declaration is directed.);

⁴ See MPEP section 409.03(d) (Rev. 1, Feb. 2003) (Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted . . . When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts.).

To show that Bexten has refused to join in this application despite such a *bona fide* attempt, the petition must include, *inter alia*, a statement of facts, signed by a person with **firsthand knowledge** of the facts recited therein, concerning the circumstances of the presentation of the application papers to Bexten at his last known address,⁵ and **his subsequent refusal**.⁶

The instant petition and the accompanying exhibits indicate that:

- (1) The "application, declaration, and assignment" were mailed to Bexten at his last known address on March 27, 2003.
- (2) A reminder was mailed to Bexten on May 5, 2003.

However:

- (A) It is unclear whether a **copy of the entire application (specification including claims; drawings)** was mailed to Bexten with the March 27, 2003 letter.
- (B) There is no evidence that anyone made an effort (by telephone or e-mail) to contact Bexten and verify that he not only received the documents, but had sufficient time to review the application.⁷ Accordingly, the conclusion that Bexten refused to join in this application⁸ is unfounded.

In view of the above, the petition is dismissed.

To prevent abandonment of this application,⁹ one of the following must be submitted within **TWO MONTHS** of the mailing date of this decision:¹⁰

- (1) an oath/declaration properly signed by all inventors, including Bexten;¹¹

⁵ 37 CFR 1.47(a); MPEP section 409.03(e) (Rev. 1, Feb. 2003):

⁶ See supra note 3.

⁷ **The application was filed with a 64-page specification, and 53 sheets of drawings of 70 figures.**

⁸ Petition, page 1, paragraph 1.

⁹ See 37 CFR 1.53(f) (If an application which has been accorded a filing date . . . does not include an oath or declaration . . . pursuant to §1.63 . . . , applicant will be notified and given a period of time within which to . . . file an oath or declaration . . . to avoid abandonment).

¹⁰ Unless proper extension(s) of time under 37 CFR 1.136(a) is (are) obtained.

¹¹ A declaration listing the invention and all of the inventors, but signed only by Bexten, would be sufficient for supplementing the 5/23/03 Declaration.

or

- (2) a renewed §1.47(a) petition (no fee) that includes proper statement(s)¹² of facts establishing that a *bona fide* attempt was made to present to Bexten, at his last known address, **a copy of the entire application (specification including claims; drawings)**, and that Bexten nevertheless refused to sign the declaration.

The renewed §1.47(a) petition should be addressed as follows:

by mail/by hand: Commissioner for Patents, USPTO
Office of Petitions
Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

by fax: (703) 308-6916
Attn: Office of Petitions

Finally, the Office acknowledges receipt with the petition of: the \$130 petition fee; the \$130 surcharge for failure to submit an acceptable oath/declaration upon filing of the application; the \$750 basic filing fee; and the \$84 extra claims fee.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.



RC Tang
Petitions Attorney
Office of Petitions

¹²

Statements based on hearsay will not be considered.



Paper No. 8

PERKINS COIE LLP
PATENT-LA
PO BOX 1208
SEATTLE, WA 98111-1208

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JUL 24 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Davis et al.
Application No. 10/334,688
Filed: December 30, 2002
Attorney Docket No. 54008.8037.US02
P01-0040

This decision concerns the July 14, 2003 "Response to Decision on Petition" which is being treated as a renewed petition under 37 CFR 1.47(a).

The renewed petition is **DISMISSED as moot.**

The previous petition under 37 CFR 1.47(a), filed on May 23, 2003, was accompanied by a declaration signed by two of the three inventors named in this application ("May 23, 2003 Declaration"). That petition was dismissed on June 16, 2003, in that, it failed to show that a copy of the entire application (specification including claims; drawings) had been presented to the third inventor, Daniel P. Bexten, before the conclusion was drawn that Daniel P. Bexten refused to join in the application.

The instant renewed petition encloses a declaration naming the claimed invention and the inventive entity for the application, and is signed by Daniel P. Bexten ("July 14, 2003 Declaration"). The renewed §1.47(a) petition is thus dismissed as moot.

No petition fee is owed.

Both the May 23, 2003 Declaration and the July 14, 2003 Declaration are hereby accepted, with the latter supplementing the former.

The application is now complete.

The file is being returned to the Office of Initial Patent Examination for correcting the continuity data in the PTO electronic database (PALM) and for mailing of a corrected Filing Receipt as requested by Applicants on March 31, 2003. Thereafter, the application file will be forwarded to Technology Center 3600 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions



Stattler Johansen & Adeli
P.O. Box 51860
Palo Alto, CA 94303

COPY MAILED

SEP 03 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Steven Teig, et. al. :
Application No. 10/334,690 :
Filed: December 31, 2002 :
Attorney Docket No. CDN.P0042 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 27, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 23, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight March 23, 2004.

In response, petitioner submitted with the instant petition 1,330 for the petition to revive fee, an amendment, and \$950 for a three (3) months extension of time. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$950 extension of time submitted with the petition on July 27, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The petition is **GRANTED**.

The application file is being referred to Technology Center Art Unit 2825 for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE CERTIFICATE OF CORRECTION

PATENT NO. : 7,289,839

Page 1 of 2

APPLICATION NO.: 10/334,698

ISSUE DATE : October 30, 2007

INVENTOR(S) : Dimmer 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:

On page 2, under "U.S. Patent Documents", in column 1, line 71, after "Vesely" delete ".".

On page 3, under "Foreign Patent Documents", in column 1, line 3, delete "W-96/08208" and insert - - WO-96/08208 - -, therefor.

On page 3, under "Foreign Patent Documents", in column 1, line 22, delete "WO-00/19908" and insert - - WO-02/19908 - -, therefor.

On page 3, under "Other Publications", in column 2, lines 8-9, below "PCT/US00/31667." delete "International Search Report dated Jan. 24, 2003, PCT Application No. PCT/US02/29390."

In column 3, line 45, delete "Nos." and insert - - No. - -, therefor.

In column 5, line 37, delete "FG" and insert - - F_G - -, therefor.

In column 6, line 32, in Claim 1, delete "lead less" and insert - - leadless - -, therefor.

In column 6, line 59, in Claim 4, delete "mm³" and insert - - mm³ - -, therefor.

In column 6, line 59, in Claim 4, delete "mm³." and insert - - mm³. - -, therefor.

In column 6, line 63, in Claim 5, delete "mm²" and insert - - mm² - -, therefor.

In column 7, line 1, in Claim 6, delete "mm²" and insert - - mm² - -, therefor.

In column 7, line 1, in Claim 6, delete "mm²" and insert - - mm² - -, therefor.

In column 7, line 57, in Claim 13, delete "mm²" and insert - - mm² - -, therefor.

In column 7, line 62, in Claim 14, delete "mm²" and insert - - mm² - -, therefor.

In column 7, line 62, in Claim 14, delete "mm²" and insert - - mm² - -, therefor.

In column 8, line 55, in Claim 24, delete "mm²" and insert - - mm² - -, therefor.

In column 8, line 65, in Claim 26, delete "mm²" and insert - - mm² - -, therefor.

UNITED STATES PATENT AND TRADEMARK OFFICE CERTIFICATE OF CORRECTION

PATENT NO. : 7,289,839

Page 2 of 2

APPLICATION NO.: 10/334,698

ISSUE DATE : October 30, 2007

INVENTOR(S) : Dimmer 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:

In column 9, line 19, in Claim 29, delete "mm3" and insert -- mm³ --, therefor.

In column 9, line 19, in Claim 29, delete "mm3." and insert -- mm³ . --, therefor.

In column 10, line 14, in Claim 36, delete "mm3" and insert -- mm³ --, therefor.

In column 10, line 14, in Claim 36, delete "mm3." and insert -- mm³ . --, therefor.

In column 10, line 19, in Claim 37, delete "mm2" and insert -- mm² --, therefor.

In column 10, line 24, in Claim 38, delete "mm2" and insert -- mm² --, therefor.

In column 10, line 24, in Claim 38, delete "mm2" and insert -- mm² --, therefor.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2

UNITED STATES PATENT AND TRADEMARK OFFICE CERTIFICATE OF CORRECTION

PATENT NO. : 7,289,839

Page 1 of 1

APPLICATION NO.: 10/334,698

ISSUE DATE : October 30, 2007

INVENTOR(S) : Dimmer 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:

In column 6, line 44, in Claim 1, delete "then" and insert -- the --, therefor.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081117

DATE : November 17, 2008

TO SPE OF : ART UNIT 3735

SUBJECT : Request for Certificate of Correction on Patent No.: 7,289,839

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:

/CHARLES A MARMOR II/
Supervisory Patent Examiner.Art Unit 3735



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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WAGNER, MURABITO & HAO LLP
THIRD FLOOR
TWO NORTH MARKET STREET
SAN JOSE, CA 95113

COPY MAILED

JUN 27 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Andrew Read, et al. :
Application No. 10/334,748 :
Filed: December 31, 2002 :
Attorney Docket No. TRAN-P186 :

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 April 8, 2005, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated April 5, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2857 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

¹The 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 DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/334,748	12/31/2002	Andrew Read	TRAN-P186	3683

7590 08/29/2006
WAGNER, MURABITO & HAO LLP
Third Floor
Two North Market Street
San Jose, CA 95113

EXAMINER

HUYNH, PHUONG

ART UNIT PAPER NUMBER

2857

DATE MAILED: 08/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 20060725

Applicant : Read, Andrew et al.
Appl No.: 10/334,748
Filed: December 31, 2002

:
: **DECISION GRANTING**
: **PETITION UNDER**
: **37 CFR 1.48**
:
:
:
:
:

This decision is in response to the petition filed May 25, 2006 in the above-identified application. Petitioner requests that inventorship be corrected in accordance with 37 C.F.R. 1.48.

Specifically, the petition requests that Louis C. Kordus and Thomas E. Stewart be added as co-inventors.

The petition complies with 37 C.F.R. 1.48(a) in that (1) the desired inventorship change is set forth; (2) statements are included from Mr. Kordus and Mr. Stewart that the error occurred without deceptive intention on their parts; (3) a declaration from each actual inventor was provided; (4) the fee set forth in 37 CFR 1.17(i) was paid; and (5) written consent of the assignee was submitted.

The papers filed on May 25, 2006 thus fulfill the requirements set forth in 37 C.F.R. 1.48(a), and the petition is GRANTED.

Marc Hoff
Supervisory Patent Examiner, Art Unit 2857
Technology Center 2800

WAGNER, MURABITO & HAO LLP
Third Floor
Two North Market Street
San Jose CA 95113



Patent No. : 6,828,177 B2
Ser. No. : 10/334754
Inventor(s) : Zeng et al.
Issued : December 7, 2004
Title : **GATE PAD PROTECTION STRUCTURE FOR
POWER SEMICONDUCTOR DEVICE AND
MANUFACTURING METHOD THEREFOR**
Docket No. : 10794.5

Re: Request for Reconsideration

Consideration has been given your request for Reconsideration for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

You request for reconsideration is denied, you must file a petition under 3.81(b) and apply a \$130.00 fee along with the \$100.00 fee previously applied. Please see instructions below.

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.

Ernest C. White, LIE
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext.122 or (703) 308-9390

KIRTON & McCONKIE
1800 Eagle Gate Tower
60 East South Temple
P.O. Box 45120
Salt Lake City UT 84111

ecw



KIRTON AND MCCONKIE
60 EAST SOUTH TEMPLE
SUITE 1800
SALT LAKE CITY, UT 84111

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In re Patent No. 6,828,177 :
Issue Date: December 7, 2004 :
Application No. 10/334,754 : ON PETITION
Filed: December 30, 2002 :
Attorney Docket No. 10794.5 :

This is a decision on the petition filed June 9, 2005, which is being treated as a petition under 37 CFR 3.81(b)¹ to add the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

¹ See Official Gazette of June 22, 2004



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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Patent No. 7,211,263 : DECISION UNDER 37 CFR
Issued: May 1, 2007 : 1.705(d)
Application No. 10/334,796 :
Filed: January 2, 2003 :
Atty. Dkt. No.: 03495.0370-0300 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed June 29, 2007. This matter is being properly treated under 37 CFR 1.705(d) as an application for patent term adjustment.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Patent No. 7,211,263 on May 1, 2007. The instant request for reconsideration was timely filed June 29, 2007 in accordance with 37 CFR 1.705(d). The patent issued with a PTA of zero days. Patentees argue that the patent is entitled to an adjustment of 224 days.

At the time of issuance, the adjustment totaling 66 days was properly reduced 260 days for applicants' failure to engage in reasonable efforts to conclude prosecution or processing, yielding an adjustment of zero days.

Patentee argues that the patent is entitled to further adjustment for the Office's failure to issue the patent within three years from the date upon which the application was filed.

A review of the record reveals that a request for continued examination (RCE) was filed September 2, 2005 in this case. Any time consumed by continued examination of the application under 35 U.S.C. 132(b) is not included in the term of an original patent that is subject to adjustment due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the

national stage commenced under 35 U.S.C. 371(b) or (f) in an international application. See, CFR 1.702(b)(1).

In view thereof, the patent is entitled to an adjustment of zero days, as indicated on the patent.

The Office hereby acknowledges receipt of the required patent term adjustment application fee of \$200.00.

Any request for reconsideration of this decision must be submitted within TWO MONTHS of the mail date of the instant decision indicated above. Extensions under 37 CFR 1.136 will not be permitted.

Telephone inquiries specific to this matter may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.



Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy