UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. None

John P. Ward
Blakely, Sokoloff, Taylor & Zafman LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles CA 90025-1030

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JUN 16 2005

OFFICE OF PETITIONS

In re Application of
Surya N. Koneru
Application No. 10/334,810
Filed: December 31, 2002
Attorney Docket No.: 42P14523
Title: CALIBRATION CIRCUIT FOR CURRENT SOURCE AND ON-DIE TERMINATIONS

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

This is a decision on the petition under 37 CFR §1.137(b)[1], filed May 6, 2005, to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR §1.112 in a timely manner to the non-final Office action mailed July 16, 2004, which set a shortened statutory period for reply of 3 months. No response was received, and no extensions of time under the provisions of 37 CFR §1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 17, 2004. A Notice of Abandonment was mailed on February 3, 2005.

With the present petition, Petitioner has submitted the petition fee, and amendment, and the proper statement of unintentional delay.

Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). As such, the petition is **GRANTED**. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

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.

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Paper No. None

FARJAMI & FARJAMI LLP
26522 LA ALAMEDA AVENUE, SUITE 360
MISSION VIEJO CA 92691

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JUN 16 2005

OFFICE OF PETITIONS

In re Application of
Yiliang Bao
Application No. 10/102,410
Filed: March 20, 2002
Attorney Docket No.: 044368-0360(00CXT0416I)
Title: BAD PIXEL CORRECTION WHILE PRESERVING FEATURES

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

This is a decision on the petition under 37 CFR §1.137(b)[1], filed May 9, 2005, to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR §1.112 in a timely manner to the non-final Office action mailed May 27, 2004, which set a shortened statutory period for reply of 3 months. No response was received, and no extensions of time under the provisions of 37 CFR §1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 28, 2004.

With the present petition, Petitioner has submitted the petition fee, and amendment, and the proper statement of unintentional delay.

Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). As such, the petition is **GRANTED**. 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 Revocation of Power of Attorney and Change of Correspondence Address have been entered and made of record.

Paul Shanoski

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

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.

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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

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APR 0 4 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Sakae Obara et al :
Application No. 10/334,824 :
Filed: December 31, 2002 :
Attorney Docket No. 5576.101CT :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 23, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1623 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
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MAIL

AUG 18 2009

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of:
BONNERY, CHRISTOPHE, et al.
Application Serial No.: 10/334,825
Filed: December 29, 2002
For: **METHOD OF COMPRESSION OF VIDEO TELEPHONY IMAGES**

DECISION ON PETITION TO WITHDRAW RESTRICTION REQUIREMENT UNDER 37 CFR 1.144

This is a decision on the petition filed May 18, 2009 under 37 C.F.R. §1.144 to withdraw an outstanding restriction requirement.

The petition is **DISMISSED**.

The petition requests reconsideration and withdrawal of the claim restrictions set forth by the Examiner on the Office action of February 12, 2007. In this action, the Examiner held claims 64-92 drawn to and invention that is independent from the invention originally claimed and examined.

However, in the Office action mailed April 28, 2009, the examiner apparently withdrew the restriction requirement by providing an action on the merits for claims 64-92. Accordingly, the petition to withdraw restriction requirement is moot.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/14/05

TO SPE OF : ART UNIT 1772

SUBJECT : Request for Certificate of Correction on Patent No.: 6,756,100

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:

_____

_____

_____

_____

_____

Steve Rye
SPE

1772
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 8

James J. Murphy, Esq.
Winstead Sechrest & Minick
P.O. Box 50784
1201 Elm
Dallas TX 75270

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APR 1 6 2003

OFFICE OF PETITIONS

In re Application of
Melanson, et al.
Application No. 10/334;846
Filed: December 30, 2002
Attorney Docket No. 1065-CA(P120c1)
For: CIRCUITS, SYSTEMS AND METHODS FOR VOLUME CONTROL IN 1-BIT DIGITAL AUDIO SYSTEMS

DECISION GRANTING PETITION

This is a decision on the petition filed March 14, 2003, to accord the above-identified application a filing date of December 30, 2002.

On December 30, 2002, the application was deposited.

On February 6, 2003, the Office of Initial Patent Examination mailed a Notice stating that the specification , at least one claim, and a signed oath or declaration were missing and that a filing date would be accorded upon receipt of the missing items.

In response, the present petition alleges that the specification, claims, drawings, and a copy of a declaration from the parent application were inadvertently omitted. However, the Utility Patent Application Transmittal sheet incorporated by reference the entire disclosure of parent application no. 09/905,475. The petition states that the specification in the parent and continuation are identical.

The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted.

Based on the incorporation by reference, it appears that the specification, claims, and drawings were present in the Office on December 30, 2002, albeit in the file of another application, i.e., application No. 09/905,475. Therefore, on petition, the application may be accorded the requested filing date of December 30, 2002.

In view of the above, the petition is **granted**. The copy of the specification, claims, and drawings submitted with the petition will be used for examination purposes .[1]

The petition fee of $130 will not be refunded since the petition was required to accord the

[1] The Office assumes that the specification and drawings are a true and exact copy of the specification and drawings submitted in the parent application. If this is not the case, then petitioner must notify the Office. Of course, the primary examiner is expected to compare the instant specification and drawings to the disclosure of the parent application in order to verify that the specification and drawings are, in fact, parts of the disclosure of the prior application.

application the requested filing date.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 30, 2002, using the application papers filed on December 30, 2002 and the copy of the specification, claims, and drawings filed on March 14, 2003.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : May 1, 2007

Patent No. : 7050680 B2
Application No : 10/334878
Inventor(s) : Hwang, et al.
Issued : May 23, 2006
Title : **OPTICAL COUPLING DEVICE HAVING SILICON OPTICAL BENCH AND OPTICAL FIBER WITH ANGLED END FACE**
Docket No. : 067515.0164 (A35628)

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is denied.

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 ATTN: Office of Petitions

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

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

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

CBN/eme

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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44TH FLOOR
NEW YORK NY 10112-4498

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OFFICE OF PETITIONS

In re Patent No. 7,050,680
Issued: May 23, 2006
Application No. 10/334,878
Filed: December 31, 2002
Attorney Docket Number: A35628

ON PETITION

This is a decision on the petition, filed April 10, 2007 under 37 CFR 1.183, to correct the assignee's name on the front of the Patent, which is being treated as a request under 37 CFR 3.81(b)[1]

The petition is **GRANTED**.

Petitioner states that the incorrect identification of the second assignee on the Fee(s) Transmittal form PTOL-85(b) filed January 9, 2006 was inadvertent. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct 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 however, reflect that INSTITUTE OF INFORMATION TECHNOLOGY ASSESSMENT is 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 in the amount of $130.00 and the fee for the certificate of correction in the amount of $100 have been applied.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This file is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LAW OFFICE OF JIM BOICE
3839 BEE CAVE ROAD, SUITE 201
WEST LAKE HILLS, TX 78746

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JUL 16 2008

OFFICE OF PETITIONS

In re Application of :
Robert Francis Berry, et. al. :
Application No. 10/334,888 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No. GB920020021US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 14, 2008, to revive the above-identified application.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an appeal brief with the $510 fee; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of a Notice of Appeal and $500 fee filed on September 7, 2007.

This application file is being referred to Technology Center Art Unit 2193 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

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 8

MARK D. MCSWAIN
IBM ALMADEN RESEARCH CENTER, IP LAW DEPT.
650 HARRY ROAD
CHTA/J2B
SAN JOSE CA 95120

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JUN 3 0 2004

OFFICE OF PETITIONS

In re Application of
Hrle et al.
Application No.10/334,892
Filed: December 31, 2002
Attorney Docket No. DE9-2002-0031

Title of Invention: METHOD AND DEVICE FOR ESTABLISHING SYNCHRONIZED RECOVERY LOG POINTS

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed March 26, 2004, to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice to file Missing Parts of a Nonprovisional Application which was mailed on February 20, 2003. The Notice to File Missing Parts set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on April 21, 2003. A Notice of Abandonment was mailed on January 28, 2004.

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

Pursuant to petitioner's request, deposit account 09-0441 is being charged the $130.00 surcharge for late filing of fee or declaration.

The Office acknowledges receipt of the executed declaration.

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

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

Charlema R. Grant

Petitions Attorney

Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 8

GLEN B. CHOI
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1026

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FEB 03 2004

OFFICE OF PETITIONS

In re Application of
Beverly et al.
Application No. 10/334,894
Filed: December 30, 2002
Attorney Docket No. 042390-P14955

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 17, 2003, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed April 16, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 17, 2003.

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

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

Telephone inquiries should be directed to Paralegal Liana Chase at (703) 306-0482.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No. ____

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

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OFFICE OF PETITIONS

In re Application of :
Ming-Sheng Yang et al :
Application No. 10/334,902 : DECISION GRANTING PETITION
Filed: January 2, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 4444-0103P :

This is a decision on the petition, filed August 3, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 2, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2812 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 28, 2005

TO SPE OF : ART UNIT 1712

SUBJECT : Request for Certificate of Correction on Patent No.: 6,846,520

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

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

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9309 ext. 116

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

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

Comments:

RANDY GULAKOWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

SPE

1712

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Marina Portnova
BLAKELY, SOKOLOFF, TAYLOR &
ZAFMAN LLP
12400 Wilshire Blvd.
Seventh Floor
Los Angeles, CA 90025-1026

MAILED

JUL 03 2006

Technology Center 2100

In re Application of:
Issac Stephen Levin
Application No. 10/334,922
Filed: December 31, 2002
For: A METHOD AND APPARATUS TO PRESENT AN INTEGRATED PROCESS MODELER

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed May 22, 2006.

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

There is no indication that Applicant has been notified of the request for withdrawal.

Accordingly, the request is **DENIED**.

All future communications from the United States Patent and Trademark Office (Office) will continue to be directed to the above-listed address until otherwise notified by applicant.

Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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CSA LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN TX 78759

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OFFICE OF PETITIONS

In re Patent No. 7,117,449 :
Issue Date: October 3, 2006 :
Application No. 10/334,922 : DECISION GRANTING PETITION
Filed: December 31, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. OIC0114US :

This is a decision on the petition, filed October 27, 2006, under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen-months after filing. *See* 37 CFR 1.137(f).

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

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on August 12, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country. Therefore, pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c), petitioner failed to timely notify the USPTO of the filing of a counterpart application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the USPTO of the filing of a counterpart application in an eighteen-month publication country must be accompanied by:

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

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

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

This application matured into Patent No. 7,117,449 on October 3, 2006. Therefore, no further action being required, this patented file is being forwarded to Files Repository.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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KEATING & BENNETT LLP
SUITE 312
10400 EATON PLACE
FAIRFAX VA 22030

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AUG 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Ikuo Tamaru :
Application No. 10/334,945 : ON PETITION
Filed: January 2, 2003 :
Attorney Docket No. 36856.1003 :

This is a decision on the petition, filed July 27, 2005, which is being treated as a petition 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 18, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2817 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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OCT 24 2005

OFFICE OF PETITIONS

In re Application of :
Kenichi Itou et al :
Application No. 10/334,946 : ON PETITION
Filed: January 2, 2003 :
Attorney Docket No. 36856.988 :

This is a decision on the petition, filed October 17, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

The examiner of Technology Center AU 2819 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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Paper No. _____

Date : October 24, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Kenichi Itou et al
Application No. :10/334,946
Filed :January 2, 2003

The above-identified application has been assigned Patent No. 6,960,977 and an issue date of November 1, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of November 1, 2005:

> "All reference to Patent No. 6,960,977 to Kenichi Itou et al of Japan for COMMON MODE CHOKE COIL ARRAY appearing in the Official Gazette of November 1, 2005 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI OH 45202

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DEC 24, 2009

OFFICE OF PETITIONS

In re Patent No. 7032771 :
Issue Date: 04/25/2006 :
Application Number: 10/334951 : NOTICE
Filing or 371(c) Date: 12/31/2002 :
Attorney Docket Number: 0100508/0569028 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on October 16, 2009.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Attorney
Office of Petitions

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Paper No. 7

HALE & DORR LLP
THE WILLARD OFFICE BUILDING
1455 PENNSYLVANIA AVE, NW
WASHINGTON, DC 20004

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OCT 3 1 2003

OFFICE OF PETITIONS

In re Application of :
Jeffrey H. Alexander, et al. :
Application No. 10/334,981 : DECISION GRANTING PETITION
Filed: January 2, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 103864.126US1 :

This is a decision on the petition, filed September 4, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on January 22, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of February 5, 2004 accompanies this decision on petition.

There is no indication that a reply to the non-final Office action of July 3, 2003 has been filed. Accordingly, a shortened statutory period of three (3) months for reply to the non-final Office action of July 3, 2003 is restarted with the mailing date of this decision. Extensions of time pursuant to the provisions of 37 CFR 1.136(a) are permitted. Failure to timely reply within the period restarted by this decision will result in the abandonment of this application.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-9220.

This application is being returned to Technology Center Art Unit 3626 to await a reply to the non-final Office action mailed July 3, 2003, the period of which is restarted to run from the mailing date of this decision on petition as noted above.

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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/334,999	12/31/2002	Steven T. Harshfield	MICS:0055--1/FLE 00-0865.	3758

7590 07/15/2005

EXAMINER
PERALTA, GINETTE

ART UNIT	PAPER NUMBER
2814	

Michael G. Fletcher, Fletcher,
Yoder & Van Someren
P.O. Box 692289
Houston, TX 77269-2289

DATE MAILED: 07/15/2005

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

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Paper No. 71205

FLETCHER YODER
P.O. Box 692289
Houston, TX. 77269-2289

In re Application of:
Steven T. Harshfield
Serial No.: 10/334,999
Filed: December 31, 2002
Attorney Docket No.: **MICS: 0055-1 FLE 95-0865.04**

DECISION ON REQUEST FOR SUSPENSION OF ACTION

This is a decision on the Request for Continued Suspension of Action in Application 10/334,999 since it is a continuation of a Reissue Application to correct a claim of priority under 35 U.S.C.120.

The request for suspension is GRANTED to the extent indicated below.

In view that present application 10/334,999 is a continuation of U.S Patent 6,563,156 to Harshfield, which has been submitted as a reissue application to correct a claim of priority under 35 U.S.C. 120. The correction of the priority claim in the reissue application directly affects the effective date of application 10/334,999.

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

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FEB 2 2 2007

OFFICE OF PETITIONS

In re Application of Harshfield Application No. 10/334,999 Filed: December 31, 2002 Attorney Docket No. MICS:0055--1/FLE 00-0865.04	: : : : :	DECISION DISMISSING PETITION UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on certificate of mailing date November 10, 2004 and resubmitted in part on October 16, 2006 (certificate of mailing date October 10, 2006), to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional Application No. 09/617,927, filed July 14, 2000.

The petition is **DISMISSED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

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

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

The only formal amendment relating to a change in benefit claim was filed on November 15, 2004. The undersigned presumes this was part of the Rule 78(a)(3) petition that was filed on certificate of mailing date November 10, 2004. The re-submitted petition does not contain an amendment. The November 15, 2004 amendment states, "This application is a continuation-in-

part of U.S. Application Serial No. 09/617,927, filed on February July 14, 2000, which issued as U.S. Patent no. 6,440,837 on August 27, 2000.

The amendment as drafted is unacceptable because two significant errors are present. First, and most importantly, petitioner claims benefit to Application No. 09/617,927, which is not the application that matured into Patent No. 6,440,837. Petitioner should have cited Application No. 09/617,297. Second, Application No. 09/617,297 was filed on July 14, 2000. Petitioner should eliminate the word "February" from the benefit claim.

Before the petition can be granted, petitioner must submit a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3).[1]

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

By mail: Mail Stop PETITIONS
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Alexandria, VA 22313-1450

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Michael G. Fletcher, Fletcher,
Yoder & Van Someren
P.O. Box 692289
Houston TX 77269-2289

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OFFICE OF PETITIONS

In re Application of :
Harshfield :
Application No. 10/334,999 : DECISION DISMISSING PETITION
Filed: December 31, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. MICS:0055--1/FLE 00-0865.04 :

This is a decision on the reconsideration petition under 37 CFR 1.78(a)(3), filed on March 27, 2007 (certificate of mailing date March 22, 2007), to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

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

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

The amendment as drafted is unacceptable because the first listed application, Application No. 11/008,755, was filed on December 9, 2004. The present application was filed on December 31, 2002. An application cannot claim the benefit of a **later** filed application.

Before the petition can be granted, petitioner must submit a substitute amendment, along with a renewed petition under 37 CFR 1.78(a)(3).[1]

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

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AUG 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Harshfield	:	
Application No. 10/334,999	:	DECISION DISMISSING PETITION
Filed: December 31, 2002	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. MICS:0055--1/FLE 00-0865.04	:	

This is a decision on the reconsideration petition under 37 CFR 1.78(a)(3), filed on June 20, 2007 (certificate of mailing date June 14, 2007), to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

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

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

The petition cannot be granted at this time because Examiner Weiss has indicated that after reviewing the case and his notes, the proposed amendment raises new issues that would require further consideration and/or search. Therefore, the submission of a RCE is required as a condition for acceptance of the late claim for priority under 37 CFR 1.78(a)(3).

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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SEP 27 2007

OFFICE OF PETITIONS

In re Application of :
Harshfield :
Application No. 10/334,999 : DECISION GRANTING PETITION
Filed: December 31, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. MICS:0055--1/FLE 00-0865.04 :

This is a **revised** decision on the reconsideration petition under 37 CFR 1.78(a)(3), filed on June 20, 2007 (certificate of mailing date June 14, 2007), to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional applications set forth in the concurrently filed amendment.

The petition was dismissed on August 20, 2007 because Examiner Weiss indicated that after reviewing the case and his notes, the proposed amendment raised new issues that would require further consideration and/or search. Therefore, the submission of a RCE was required as a condition for acceptance of the late claim for priority under 37 CFR 1.78(a)(3).

Examiner Weiss has since withdrawn the finality of the June 18, 2007 Office action and mailed a non-final Office action on September 17, 2007. Therefore, the sole ground for dismissing the Rule 78(a)(3) petition is no longer valid.

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 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

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

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

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

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. 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 2814 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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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	TOT CLMS	IND CLMS
10/334,999	12/31/2002	2814	740	MICS:0055--1/FLE 00-0865.	7	1

CONFIRMATION NO. 3758

Michael G. Fletcher, Fletcher,
Yoder & Van Someren
P.O. Box 692289
Houston, TX 77269-2289

CORRECTED FILING RECEIPT

OC000000025990337

Date Mailed: 09/25/2007

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

Applicant(s)

Steven T. Harshfield, Emmett, ID;

Power of Attorney:

Michael Fletcher--32777

Domestic Priority data as claimed by applicant

This application is a CON of 09/809,561 03/15/2001 PAT 6,563,156
which is a CIP of 09/617,297 07/14/2000 PAT 6,440,837

Foreign Applications

If Required, Foreign Filing License Granted: 04/18/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/334,999

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Memory elements and methods for making same

Preliminary Class

257

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.

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

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Paper No.

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

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JUL 29 2005

OFFICE OF PETITIONS

In re Application of :
Maloney et al. : DECISION ON PETITION
Application No. 10/335,008 :
Filed: December 31, 2002 :
Atty Docket No. 42P14234 :

This is a decision on the petition filed July 11, 2005, to revive the above-identified application under 37 CFR 1.137(b).

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

The above-identified application became abandoned for failure to timely file a proper response to the restriction requirement mailed September 28, 2004. This Office action set a shortened statutory period for reply of one month from the mailing date of the action. No extensions of time under 37 CFR § 1.136(a) were obtained. Accordingly, the above-identified application became abandoned at midnight on October 28, 2004. A courtesy Notice of Abandonment was mailed on June 23, 2005.

With the instant petition, petitioner filed a response to the non-final Office action in the form of an election, and met all other requirements for a grantable petition under 37 CFR 1.137(b).

The application is being forwarded to Technology Center AU 2813 for consideration of the response to the restriction requirement submitted on petition filed July 11, 2005.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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SEP 20 2006

OFFICE OF PETITIONS

In re Application of	:	
Lindquist, et al.	:	
Application No. 10/335,016	:	DECISION ON PETITION
Filed: December 31, 2002	:	TO WITHDRAW
Attorney Docket No. 5306.P095	:	FROM RECORD
	:	

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

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Blakely, Sokoloff, Taylor & Zafman, LLP has been revoked by the assignee of the patent application on September 11, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Sam Campbell
Campbell, Stephenson Asocolese, LLP
4807 Spicewood Spring Road
Bldg. 4, Suite 201
Austin, TX 78759

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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DIW 05-03

Paper No. 5

MARGER JOHNSON & MCCOLLOM PC
1030 SW MORRISON STREET
PORTLAND OR 97205

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MAY 22 2003

OFFICE OF PETITIONS

In re Application of	:	
Nair and Tang	:	DECISION REFUSING STATUS
Application No. 10/335,026	:	UNDER 37 CFR 1.47(a)
Filed: 30 December, 2002	:	
Atty Docket No. 5038-258	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 21 April, 2003.

The petition is **DISMISSED**.

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

The above-identified application was filed on 30 December, 2002, without an executed oath or declaration. Accordingly, on 14 February, 2003, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring an executed oath or declaration and a surcharge for its late filing. In response, on 21 April, 2003 (certificate of mailing date 14 April, 2003), petitioners filed a declaration naming Rajendran Nair and John Tang as joint inventors and signed by joint inventor Tang on behalf of himself and joint inventor Nair, the present petition fee and surcharge. On 17 April, 2003, joint inventor Nair filed an executed declaration listing himself as the sole inventor.

Petitioners state that joint inventor Nair refuses to sign the declaration naming him as a joint inventor along with joint inventor Tang.

At the outset, 37 CFR 1.41(a)(1) now defines the inventorship of a non-provisional application as that inventorship set forth in the oath or declaration filed to comply with the requirements of 37 CFR 1.63. As the first executed declaration filed listed Nair and Tang as joint inventors, the inventorship is as so stated. Additionally, since inventor Nair has not signed a declaration reflecting the correct inventorship, he is considered not to have signed a declaration in compliance with 37 CFR 1.63 and 1.64 and is considered a non-signing inventor.

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

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

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

(3) the petition fee;

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

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

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

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

---

[1] MPEP 409.03(d).

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

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

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

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

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

MARGER JOHNSON & MCCOLLOM PC
1030 SW MORRISON STREET
PORTLAND OR 97205

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JUN 1 0 2003

OFFICE OF PETITIONS

In re Application of	:	DECISION ACCORDING STATUS
Nair and Tang	:	UNDER 37 CFR 1.47(a)
Application No. 10/335,026	:	
Filed: 30 December, 2002	:	
Atty Docket No. 5038-258	:	

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 3 June, 2003.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Rajendran Nair, has refused to join in the filing of the above-identified application after having been sent, via E-mail, a copy of the application papers. Specifically, the petitioners have established, by the declaration of petitioners' registered patent attorney Julie L. Reed, that a copy of the above-identified application was E-mailed to the non-signing inventor. However, the non-signing inventor refused in writing to return a signed declaration naming his as a joint inventor along with John Tang.

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

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

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

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Thomas E. Ciotti
Morrison and Foerster LLP
755 Page Mill Rd
Palo Alto, CA 94304

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FEB 14 2007

OFFICE OF PETITIONS

In re Application of :
Marc-Alan Levine, et al. :
Application No. 10/335,034 : DECISION ON PETITION
Filed: December 31, 2002 : TO WITHDRAW
Attorney Docket No. 488422000900 : 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 12, 2006.

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

A review of the file record indicates that the power of attorney to Thomas E. Ciotti has been revoked by the assignee of the patent application on February 15, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Cheryl Gibson-Baylor at 571-272-3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Conferee:

cc: Neil D. Gershon
29 Quaker Ridge Road
Stamford, CT 06903

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HOWREY LLP-CA
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH, VA 22042-2924

MAILED

MAR 15 2010

OFFICE OF PETITIONS

In re Patent No. 7,052,766 :
Issue Date: May 30, 2006 :
Application No. 10/335,051 : NOTICE
Filed: December 31, 2002 :
Attorney Docket No. 26822-0036 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

The patent file will be forwarded to the Files Repository.

Alicia Kelley
Petitions Examiner
Office of Petitions

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275 MIDDLEFIELD ROAD
MENLO PARK CA 94025

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OFFICE OF PETITIONS

In re Application of :
Dominique M. Freeman et al. :
Application No. 10/335,052 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No.: 38187-2638 :

This is a decision on the petition under 37 CFR 1.182, filed March 1, 2006, to change the order of the names of the inventors.

The petition is **GRANTED**.

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

1. Dominique M. Freeman
2. Dirk Boecker
3. Don Alden

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

This matter is being referred to Technology Center 2664 for further examination.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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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
10/335,052	12/31/2002	3736	1331	38187-2638	32	49	18

CONFIRMATION NO. 5464

Heller Ehrman White & McAuliffe
275 Middlefield Road
Menlo Park, CA 94025

CORRECTED FILING RECEIPT

OC000000018708731

OC000000018708731

Date Mailed: 05/08/2006

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)

Dominique M. Freeman, La Honda, CA;
Dirk Boecker, Palo Alto, CA;
Don Alden, Sunnyvale, CA;

Assignment For Published Patent Application

Pelikan Technologies, Inc., Palo Alto, CA

Power of Attorney:

Paul Davis--29294

Domestic Priority data as claimed by applicant

This application is a CIP of 10/127,395 04/19/2002 PAT 7,025,774
and is a CIP of 10/237,261 09/05/2002

Foreign Applications **Acceptable Request to Retrieve Priority Application Received?**

If Required, Foreign Filing License Granted: 02/14/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/335,052

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Method and apparatus for penetrating tissue

Preliminary Class

600

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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LICENSE FOR FOREIGN FILING UNDER
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Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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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.

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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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MENLO PARK CA 94025

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OFFICE OF PETITIONS

In re Application of :
Dominique M. Freeman et al. :
Application No. 10/335,052 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No.: 38187-2638 :

CORRECTED DECISION

This is a decision on the petition under 37 CFR 1.182, filed March 1, 2006, to change the order of the names of the inventors.

The petition is **GRANTED**.

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

1. Dominique M. Freeman
2. Dirk Boecker
3. Don Alden

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

Additionally, petitioner's deposit account has been charged in the amount of $400 not $130, as was indicated in the petition as effective December 8, 2004, the fee for a petition under 37 CFR 1.182 was set at $400.

This matter is being referred to Technology Center 2664 for further examination.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/335,052	12/31/2002	3736	1331	38187-2638	32	49	18

CONFIRMATION NO. 5464

Heller Ehrman White & McAuliffe
275 Middlefield Road
Menlo Park, CA 94025

CORRECTED FILING RECEIPT

OC000000019343247

OC000000019343247

Date Mailed: 06/20/2006

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

Applicant(s)

Dominique M. Freeman, La Honda, CA;
Dirk Boecker, Palo Alto, CA;
Don Alden, Sunnyvale, CA;

Assignment For Published Patent Application

Pelikan Technologies, Inc., Palo Alto, CA

Power of Attorney:

Paul Davis--29294

Domestic Priority data as claimed by applicant

This application is a CIP of 10/127,395 04/19/2002 PAT 7,025,774
and is a CIP of 10/237,261 09/05/2002

Foreign Applications

If Required, Foreign Filing License Granted: 02/14/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/335,052

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Method and apparatus for penetrating tissue

Preliminary Class

600

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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Paper No.

Goodwin Procter LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park CA 94025-1105

MAILED

MAR 0 1 2010

OFFICE OF PETITIONS

In re Patent No. 7,491,178	:	DECISION ON REQUEST
Freeman et al.	:	FOR
Issue Date: February 17, 2009	:	RECONSIDERATION OF
Application No. 10/335,052	:	PATENT TERM ADJUSTMENT
Filed: December 31, 2002	:	and
Atty Docket No. PEL-2638.US.	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on April 17, 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 seven hundred eighty (780) 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 seven hundred seventy-ninety (779) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on January 1, 2006 and ends on April 25, 2007, the day before the RCE was filed, and not April 26, 2007 the day of filing of the RCE as calculated by patentees. See 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 480 not 481 days, and the B delay considering the 55 days of overlap is 425, not 426 days. As such, the correct patent term adjustment is 779, not 780 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 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 **seven hundred seventy-nine (779)** 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 : 7,491,178

DATED : **February 17, 2009** **DRAFT**

INVENTOR(S) : Freeman 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 354 days

Delete the phrase "by 354 days" and insert – by 779 days--

APR 15 2005

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

TRASKBRITT, PC
P.O. Box 2550
Salt Lake City, Utah 84110-2550

In re Application of
Johannes P.M. Langedijk
Serial No. : 10/335,057
Filed : December 30, 2002
Attorney Dkt No. : 2183-5648US

Decision on Petition

This letter is in response to the Petition under 37 C.F.R. 1.144, filed on October 19, 2004, to request reconsideration of the restriction requirement and the holding that the introduction of the sequences corresponding to SEQ ID NOs: 27, 87 and 88 constitute the introduction of new matter. The delay in acting on this petition is regretted.

BACKGROUND

A review of the file history shows that the application was filed on December 30, 2002 with 16 claims.

A requirement for restriction was mailed to applicants on February 27, 2004, requiring the restriction of the 16 claims to one of eleven inventions under 35 U.S.C. 121. The claims were restricted as follows:

> Claims 5, 7, 11, 13, and 15 are generic to a plurality of disclosed patentably distinct sequences comprising: SEQ ID NOS: 1-11. These sequences are patentably distinct, each from the other, because of their materially different amino acid sequences. Searching all of the claimed sequences would constitute an undue burden on the examiner because different sequence searches would be required for each of the claimed sequences. Applicant is required under 35 U.S.C. 121 to elect a single disclosed sequence, even though this requirement is traversed. Generic claims 1-4, 6, 8-10, 12, 14, and 16 will be examined with the elected sequence.

It was further noted that the above restriction requirement was **not** a species election, but a holding that the sequences are patentably distinct, one from the other.

In response to this restriction requirement applicants elected with traverse SEQ ID NO: 1. In addition to applicants election of SEQ ID NO: 1, applicants amended the

specification and added new claims 17 and 18 drawn to peptide having a sequence of SEQ ID NO: 87.

The traversal of the restriction requirement was found non-persuasive by the examiner and a first action on the merits was sent to applicants, in which claims 17 and 18 were withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected sequence, there being no allowable generic or linking claim. Claims 1-16 were rejected under 35 U.S.C. 112, second paragraph and claims 1-5, 7-9 and 14-16 were rejected under 35 U.S.C. 102(b). The amendment of the specification to include sequences corresponding to SEQ ID NOs: 27, 87 and 88 was objected to as introducing new matter, not supported by the specification at the time of original filing.

On October 8, 2004 applicants filed amendments to the claims, arguments and the instant petition in response to the first action on the merits.

DISCUSSION

The petition under 37 C.F.R. 1.144 to request reconsideration of (1) the restriction requirement and (2) the holding that the introduction of the sequences corresponding to SEQ ID NOs: 27, 87 and 88 constitute the introduction of new matter.

Applicants argue that no statutory or regulatory basis exists to allow the Examiner to indicate that the claims are generic to a plurality of sequences and then require the applicants to elect a patentably distinct sequence.

Applicants submit that "if two or more independent and distinct inventions are claimed in one application, the Director may require the application to be restricted to one of the inventions (35 U.S.C. 121). Applicants further submit that "if two or more independent and distinct inventions are claimed in a single application, the examiner in an Office action will require the applicant in the reply to that action to elect an invention to which the claims will be restricted (37 CFR 1.142.) and "in the first action on an application containing a generic claim to a generic invention (genus) and claims to more than one patentably distinct species embraced thereby, the examiner may require the applicant in the reply to that action to elect a species of his or her invention to which his or her claim will be restricted (37 CFR 1.146). Applicants thus conclude that although a generic claim may include separate species, the generic claim cannot, by rule embrace more than one invention. Applicants submit that the restriction requirement is contrary to the rules, on the basis that there is no restriction of the claims in the office action to independent and distinct inventions, rather the claims are indicated to be generic.

Applicants finally submit that thus "no statutory or regulatory basis exists to allow the examiner to classify the claims as generic on the one hand, and then on the other hand, say that the generic claims include elements drawn to independent and distinct inventions."

Applicants' complete argument is acknowledged. It is agreed that the restriction requirement was unclear with regard to the grouping of the inventions and treatment of

the linking claims. To clarify the record, the modified restriction requirement is presented below, in view of the claims as amended on 8 October 2004.

Claims 2-26 are pending and at issue for examination.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 5, 7, 11, 12, 14, 17, 20, 21, 18, 25 and 26 drawn to an isolated peptide having SEQ ID No 1, and methods of its use, classified in class 530, subclass 300.

II Claims 5, 7, 11, 12, 14, 17, 20, 18 and 25, drawn to an isolated peptide having SEQ ID No 2, and methods of its use, classified in class 530, subclass 300.

III. Claims 5, 7, 11, 12, 14, 17, 20, 18 and 25, drawn to an isolated peptide having SEQ ID No 3, and methods of its use, classified in class 530, subclass 300.

IV. Claims 5, 7, 11, 12, 14, 17, 20, 18 and 25, drawn to an isolated peptide having SEQ ID No 4, and methods of its use, classified in class 530, subclass 300.

V. Claims 5, 7, 11, 12, 14, 17, 20, 18 and 25, drawn to an isolated peptide having SEQ ID No 5, and methods of its use, classified in class 530, subclass 300.

VI. Claims 5, 7, 11, 12, 14, 17, 20, 18 and 25, drawn to an isolated peptide having SEQ ID No 6, and methods of its use, classified in class 530, subclass 300.

VII. Claims 5, 7, 11, 12, 14, 17, 20, 18 and 25, drawn to an isolated peptide having SEQ ID No 7, and methods of its use, classified in class 530, subclass 300.

VIII. Claims 5, 7, 11, 12, 14, 17, 20, 18 and 25, drawn to an isolated peptide having SEQ ID No 8, and methods of its use, classified in class 530, subclass 300.

IX. Claims 5, 7, 11, 12, 14, 17, 20, 18 and 25, drawn to an isolated peptide having SEQ ID No 9, and methods of its use, classified in class 530, subclass 300.

X. Claims 5, 7, 11, 12, 14, 17, 20, 18 and 25, drawn to an isolated peptide having SEQ ID No 10, and methods of its use, classified in class 530, subclass 300.

XI. Claims 5, 7, 11, 12, 14, 17, 20, 18 and 25, drawn to an isolated peptide having SEQ ID No 11, and methods of its use, classified in class 530, subclass 300.

Applicants' previous election of the polypeptide of Group I, SEQ ID NO: 1, is acknowledged.

Claims 2-4, 6, 8-10, 13, 15-16, 19 and 22-24 link(s) inventions I-XI. Upon the allowance of the linking claim(s), the restriction requirement as to the linked inventions

shall be withdrawn and any claim(s) depending from or otherwise including all the limitations of the allowable linking claim(s) will be entitled to examination in the instant application. Applicant(s) are advised that if any such claim(s) depending from or including all the limitations of the allowable linking claim(s) is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Claims 5, 7, 11, 12, 14, 17, 20, 21, 18 and 25 recite peptides listed in the alternative. The peptides are encompassed by the generic concept in claims 2-4, 6, 8-10, 13, 15, 19 and 22-24, but claims 5, 7, 11, 12, 14, 17, 20, 21, 18 and 25 could be written as a series of eleven dependent claims that capture the full scope of claims 5, 7, 11, 12, 14, 17, 20, 21, 18 and 25, without loss or overlap of patent protection.

The inventions I-XI are distinct, each from the other because of the following reasons:

The inventions corresponding to SEQ ID NOs: 1-11 are related as protein fragments taken from an isolated peptide consisting of an amino acid sequence selected from the group of amino acid sequences located at:

1) from about amino acid position 194 to about amino acid position 220 in a Pestiviral E^{rns} protein RNase;

2) from about amino acid position 59 to about amino acid position 88 in an L3 loop of a cytotoxic RNase of a ribosome-inactivating protein;

3) from about amino acid position 187 to about amino acid position 223 in a respiratory syncytial virus G-protein; and

4) mixtures of any thereof.

The inventions as claimed (SEQ ID NOs: 1-11) are distinct for the following reasons. The inventions as claimed are isolated from any one of three structurally and functionally different proteins. The inventions, as claimed, encompass peptides described in terms of partial structure and are not required to have a common utility. See, for examples, 70% identity in claim 3; "functional equivalents" and reversed sequences in claim 6, with no function specified; consisting essentially of a sequence "located at" in claim 19. No one structural feature is required for all of the peptides. Moreover, the peptides are described by a variety of utilities which do not appear to share a common feature.

A proper search and examination of more then one of the identified polypeptide inventions (i.e. peptides having SEQ ID NOs: 1-11) would result in a serious burden on the examiner by virtue that each of the different SEQ ID NOs: 1-11 are different polypeptides comprising different functions and different amino acid sequences, isolated from different organisms. As such a search of the different inventions involves different searches of various protein and nucleic acid databases as well as divergent text searches, depending on the elected invention.

Because these inventions are distinct for the reasons given above and the search required for each of the different polypeptides comprising the different amino acid sequences corresponding to SEQ ID NOs: 1-11 are different, restriction for examination purposes as indicated is proper.

Applicants argue that the peptides qualify for Markush practice in 803.02.

MPEP 803.02 states:

> Since the decisions in In re Weber, 580 F.2d 455, 198 USPQ 328 (CCPA 1978) and In re Haas, 580 F.2d 461, 198 USPQ 334 (CCPA 1978), it is improper for the Office to refuse to examine that which applicants regard as their invention, unless the subject matter in a claim lacks unity of invention. In re Harnish, 631 F.2d 716, 206 USPQ 300 (CCPA 1980); and Ex parte Hozumi, 3 USPQ2d 1059 (Bd. Pat. App. & Int. 1984). Broadly, unity of invention exists where compounds included within a Markush group (1) share a common utility, and (2) share a substantial structural feature disclosed as being essential to that utility. (emphasis added)

The 11 polypeptides recited in the alternative in claims 5, 7, 11, 12, 14, 17, 20, 21, 18 and 25 of the instant application do not share a common utility nor do they share any substantial structural feature, let alone any substantial feature disclosed as being essential to that utility, it is thus proper for the Office to set forth a restriction requirement among the inventions. For these reasons, election of species practice is not warranted.

The reasoning in the petition supports the conclusion that SEQ ID Nos 1-11 do not share a commons structure. From the petition, it appears that SEQ ID NOs: 1-4, but not SEQ ID Nos 5-11 are related to E^{rns} amino acid residues 194 to 220. SEQ ID Nos 1-4 have different structures one from another because they are from different species of *Pestiviruses*. An alignment of SEQ ID Nos 1-4 show that only 15 out of 27 residues are shared between the sequences. Moreover, the peptides as claimed do not required the shared sequences or any one particular function. Similarly, the alignment of SEQ ID NOs: 5-8 show that only 23 out of 32 residues are shared and the peptides as broadly claimed are not required to have the shared structure or any one particular shared function. Finally, an alignment of SEQ ID NO 1, 5 and 9, below, does not illuminate any significant shared structure.

```
    RQGAARVTSWLGRQLRIAGKRLEGRSK (SEQ ID NO:1)
GNGKLIKGRTPIKFGMDCDRPPKHSQNGMGK (SEQ ID NO:5)
                   KRIPNKKPGKK (SEQ ID NO:10)
```

Applicants assert that the examination of more than one amino acid sequence would not be an undue burden on the examiner, however in view of the structural and functional differences, this argument is not persuasive. Prior art which applied to one sequence would not likely be applicable to other sequences.

Applicants are correct in that they are entitled to the examination of the linking claims 2-4, 6, 8-10, 13, 15, 19 and 22-24 and should the linking claims become allowable, any dependent claims directed to nonelected invention(s), previously withdrawn from consideration, which depends from or includes all the limitations of the allowable linking claim will then be rejoined and will be fully examined for patentability (MPEP 809).

Applicants' argue that the examination of more than one amino acid sequence would not be an undue burden on the examiner in view of the Official Gazette Notice, 1192 O.G. 68 (November 19, 1996). This argument is not found persuasive because the waiver of the rules concerns only nucleotide inventions and is **not** applicable to amino acid inventions.

In order to receive concurrent examination of SEQ ID Nos 1-11, applicant may provide evidence or clearly admit on the record that the sequences are not patentably distinct one from another. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicants further petition the holding that the introduction of the sequences corresponding to SEQ ID NOs: 27, 87 and 88 constitute the introduction of new matter.

With respect to SEQ ID NO: 27, applicants' traversal of the objection to the specification is found persuasive as the amino acid sequence corresponding to SEQ ID NO: 27 is found in the last row of Table 9 of page 56 of the as-filed specification.

With respect to SEQ ID NO: 87 and SEQ ID NO: 88, applicants traverse that these amino acid sequences are consensus sequences of SEQ ID NOs: 1-4 and SEQ ID NOs: 5-8, respectively, and thus are not new matter. Applicants submit that SEQ ID NO:s 87 and 88 are not new matter because the as-filed application discloses the base sequences (e.g., SEQ ID NOs: 1-4 and SEQ ID NOs: 5-8, respectively) from which the consensus sequences are determined or derived and further the specification discloses that manual sequence alignments may be used to inspect such sequence alignments.

Applicants' complete argument is acknowledged, however found non-persuasive with respect to the newly added sequences of SEQ ID NO: 87 and 88. Applicants support for the sequences which applicants used to design SEQ ID NOs: 87 and 88 (i.e. SEQ ID NO:s 1-4 and 5-8) is acknowledged, however no where in the specification at the time of filing was there sufficient support for, or any indication that applicants were in possession of SEQ ID NOs: 87 and 88. SEQ ID NOs: 87 and 88 and those polypeptides comprising said sequence identifiers represent a new subgenus of polypeptides not supported by the specification at the time of filing

DECISION

For these reasons, the petition is **GRANTED IN PART**, as follows.

The request under 37 C.F.R. 1.144 for reconsideration of the restriction requirement for identification and proper treatment of the linking claims 2-4, 6, 8-10, 13, 15, 19 and 22-24 is **GRANTED.**

The request under 37 C.F.R. 1.144 for withdraw of the restriction requirement between polypeptides having SEQ ID Nos 1-11 is **DENIED**.

The request under 37 CFR 1.181 for withdraw of the holding that the introduction of the sequences corresponding to SEQ ID NOs: 87 and 88 constitute the introduction of new matter is **DENIED**.

The request under 37 CFR 1.181 for the withdraw of the holding that the introduction of the sequences corresponding to SEQ ID NOs: 27 constitutes new matter is **GRANTED**.

The application will be forwarded to the examiner for consideration of the amendment filed 8 October 2004 and to take appropriate action consistent with the petition decision.

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.

Bruce Kisliuk
Director, Technology Center 1600.

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WASHINGTON DC 20005-3315

11031 U.S. PTO
10/335059
12/31/02

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DEC 17 2001

OFFICE OF PETITIONS

In re Application of
Leslie Johnston-Dow et al
Application No. 09/158,695
Filed: September 21, 1998
Attorney Docket No: 07414.0005

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

This is in response to the petition filed December 14, 2001, requesting reconsideration of a decision mailed November 5, 2001, refusing to accord status under 37 CFR 1.47(a).

The petition is granted.

Petitioner has shown that the nonsigning inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the nonsigning inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Publishing Division

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

12/21/01

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OFFICE OF PETITIONS

1031 U.S. PTO
10/335059
12/31/02

Lisa D meter
282 South Landing Road
Rochester, NY 14610

In re Application of
Leslie Johnston-Dow; Lisa Demeter; Camille B. White; Keming Song; Robert Kohlenberger; Morgan Conrad and Angela Myers
Application No. 09/158,695
Filed: September 21, 1998
For: NOVEL METHODS FOR HIV SEQUENCING AND GENOTYPING

Dear Ms. Demeter:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-8680. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

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

cc:

Finnegan Henderson Farabow
Garrett and Dunner
1300 I Street NW
Washington, DC 20005-3315

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Paper No. 8

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OMAHA, NE 68154

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OFFICE OF PETITIONS

In re Application of :
Mussman :
Application No. 10/335,061 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No. PAT-009E :

This decision concerns the October 9, 2003 petition under 37 CFR 1.137(b).

The petition is **GRANTED.**

On February 5, 2003, a "Notice to File Missing Parts of Nonprovisional Application" ("2/5/03 Notice") was mailed, giving Applicant an extendable 2-month period to submit a proper oath or declaration, the application basic filing fee, and the extra claims fees.

On May 30, 2003, Applicant filed, along with a request for a 2-month extension of time and the extension-of-time fee, a declaration, the basic filing fee, and the fee for filing extra independent claims, but apparently only part of the fee required for filing extra total claims.

On September 22, 2003, a "Notice of Incomplete Reply (Nonprovisional)" was mailed, indicating that the additional extra claims fee and the $130 surcharge for late filing of a proper oath/declaration were still outstanding, and stating that the period for submitting these items remained that set forth in the 2/5/03 Notice. Therefore, the period would end on September 5, 2003 if the 5-month maximum extension of time (from February 5, 2003) was obtained. Given that these items were not submitted on or before September 5, 2003, and no further extension of time was obtained since May 30, 2003, the application became abandoned on June 6, 2003.

The instant petition authorizes the Office to charge the $1,330 petition fee, the $130 surcharge for late filing of a proper declaration, and the $756 deficiency in extra claims fee to a credit card; and states that the entire delay in submitting these items was unintentional. The petition is thus granted.

The application is now complete.

The application file is being forwarded to Technology Center 3600 for examination in due course.

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

RC Tang
Petitions Attorney
Office of Petitions

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HELLER EHRMAN LLP
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MENLO PARK CA 94025-3506

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JUL 27 2006
OFFICE OF PETITIONS

In re Application of :
Boecker, et al. :
Application No. 10/335,073 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No. 38187-2639 :
For: METHOD AND APPARATUS FOR PENETRATING TISSUE

This is a decision on the petition, filed March 1, 2006, under 37 CFR 1.182 requesting a change to the order of inventors.

The current petition fee of $400.00 will be charged to deposit account no. 08-1641.

The petition is GRANTED.

The order of inventors will be:

FREEMAN
BOECKER
ALDEN

A replacement filing receipt is enclosed.

After the mailing of this decision, the application file will be returned to Technology Center AU 3736.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

enclosure: replacement filing receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/335,073	12/31/2002	3736	1382	38187-2639	32	92	10

CONFIRMATION NO. 8407

25213
HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025-3506

REPLACEMENT FILING RECEIPT

OC000000019651570

Date Mailed: 07/18/2006

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)

Dominique M. Freeman, La Honda, CA;
Dirk Boecker, Palo Alto, CA;
Don Alden, Sunnyvale, CA;

Assignment For Published Patent Application

Pelikan Technologies, Inc., Palo Alto, CA

Power of Attorney: The patent practitioners associated with Customer Number **25213**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/127,395 04/19/2002 PAT 7,025,774
and is a CIP of 10/237,261 09/05/2002

Foreign Applications

If Required, Foreign Filing License Granted: 02/13/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/335,073

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Method and apparatus for penetrating tissue

Preliminary Class

600

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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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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WORKMAN NYDEGGER
1000 EAGLE GATE TOWER,
60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

MAILED

JUN 10 2010

OFFICE OF PETITIONS

In re Patent No. 7,211,101 :
Issue Date: May 1, 2007 :
Application No. 10/335,075 : DECISION ON PETITION
Filed: December 31, 2002 :
Attorney Docket No. 16497.1.1.1 :

This is a decision on the Request For Correction Of Assignee And Request For A Certificate Of Correction Under 37 C.F.R. §1.323, filed on March 17, 2010, requesting correction on the Title Page of the subject patent to identify the correct assignee's name. The Request is being treated as a Petition. A completed Certificate of Correction Form (PTO/SB/44) was submitted with the petition.

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

Petitioner urges that the present Petition was submitted to correct the erroneous incorrect assignee's name on the previously submitted PTOL-85B. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of a Certificate of Correction, to correct the assignee's name identified thereon from:

"Abbott Vascular Devices"

to:

--Integrated Vascular Systems, Inc.--

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 requisite $100.00 fee (Fee Code 1811) and the $130.00 processing fee (Fee Code 1464) as set forth under 37 CFR 1.20(a) have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the form (PTO/SB/44) that was submitted with petition.

Inquiries related this communication should be directed to Cheryl Gibson-Baylor at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,211,101.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

6/30/03

Zagorin O'Brien and Graham LLP
Suite 870
401 West 15th Street
Austin TX 78701

Dear Applicant:

The Box PGPub replacement drawings for application number 10/335,078 received on 5/27/03 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Customer Service, Office of Initial Patent Examination, at 703-308-1202.

UNITED STATES
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Commissioner for Patents
Washington, DC 20231
www.uspto.gov

Signature of Reviewer, Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STATTLER, JOHANSEN, AND ADELI LLP
1875 Century Park, East Suite 1360
Los Angeles, CA 90067

In re Application of:
Steven Teig
Serial No.: 10/335,080
Filed: January 31, 2002
Attorney Docket No.: CDN.P0060

DECISION *SUA SPONTE*
WITHDRAWING THE HOLDING
OF ABANDONMENT

This is a decision, sua sponte, withdrawing the holding of abandonment of the above-identified application.

A Notice of Abandonment was mailed on September 05, 2006. The application was held abandoned for failure to timely file a proper reply to the Office letter mailed on June 28, 2006.

A review of the application record reveals a response to the Office letter of June 28, 2006 (a decision from the Board of Patent Appeals and Interferences) was filed on September 1, 2006. The response (a request for reopening prosecution) was timely under 37 C.F.R. § 41.50(b) since it was filed with a Certificate of Mailing dated August 28, 2006 under 37 C.F.R. § 1.8(a).

Accordingly, the Notice of Abandonment mailed on September 6, 2006 is hereby VACATED and the holding of abandonment is withdrawn.

The Board of Patent Appeals and Interferences will be notified of this decision so that the proceeding can be remanded to the examiner in accordance with 37 C.F.R. § 41.50(b)(1).

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

Sharon A. Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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MAR 31 2004

VP
PAPER NO. ___

In re Application of
Paul Rey
Serial Number: 10/335,081
Filed: December 31, 2002
For: METHOD OF TREATING MINE DRAINAGE

DECISION
ON
PETITION

This is a decision on the Petition to Make Special because of Actual Infringement, filed under sections 37 C.F.R. 1.102 and 708.02 II of the MPEP on May 23, 2003, regarding the above-referenced application. The fee required under 37 CFR 1.17(h) has been paid. The petition meets the requirements of section 708.02 II of the MPEP.

If the examiner finds any interfering application for the same subject matter, the examiner should consider such application simultaneously with this case and should state in the official letter of such application that the examiner is taking it out of its turn because of a possible interference.

Should an appeal be taken or this case become involved in interference, then consideration of the appeal or interference will be expedited by the Patent and Trademark Office, contingent upon diligent prosecution by applicant.

After allowance, this case will be given priority for printing. See MPEP 1309.

The petition is **GRANTED.**

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

WEBB ZIESENHEIM LOGSDON ORKIN & HANSON, P.C.
700 Koppers Building
436 Seventh Avenue
Pittsburgh PA 15219-1818

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JUN 16 2006

OFFICE OF PETITIONS

HELLER EHRMAN WHITE & MCAULIFFE
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025

In re Application of :
Dominique M. Freeman et al. :
Application No. 10/335,082 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No.: 38187-2649 :

This is a decision on the petition under 37 CFR 1.182, filed March 1, 2006, to change the order of the names of the inventors.

The petition is **GRANTED**.

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

1. Dominique M. Freeman
2. Dirk Boecker
3. Don Alden

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

Additionally, petitioner's deposit account has been charged in the amount of $400 not $130, as was indicated in the petition as effective December 8, 2004, the fee for a petition under 37 CFR 1.182 was set at $400.

This matter is being referred to Technology Center 3734 for further examination.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/2/07 **Paper No.:** _____

TO SPE OF : ART UNIT 2825 10/335087

SUBJECT : Request for Certificate of Correction on Patent No.: 7093221 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.**

ARE ITEMS 1, 3 AND 4 OFFICE ERRORS? IF NOT, CHANGES APPROVED?

Thank You For Your Assistance

D. Irvine
Certificates of Correction Branch
Tel. No. 703-308-9590

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:

JACK CHIANG
SUPERVISORY PATENT EXAMINER

SPE

2825
Art Unit

UNITED STATES
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TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

6/30/03

Zagorin O'Brien and Graham LLP
Suite 870
401 West 15th Street
Austin TX 78701

Dear Applicant:

The Box PGPub replacement drawings for application number 10/335,089 received on 5/27/03 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Customer Service, Office of Initial Patent Examination, at 703-308-1202.

UNITED STATES
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Commissioner for Patents
Washington, DC 20231
www.uspto.gov

Signature of Reviewer, Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

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AUG 0 8 2003

OFFICE OF PETITIONS

ZAGORIN, O'BRIEN & GRAHAM, L.L.P.
SUITE 870
401 WEST 15TH STREET
AUSTIN TX 78701

In re Application of :
Andrew J. Walker et al. :
Application No. 10/335,089 : DECISION GRANTING
Filed: December 31, 2002 : PETITION
Attorney Docket No. 023-0020 :
Title: METHOD FOR FABRICATING :
PROGRAMMABLE MEMORY ARRAY :
STRUCTURES INCORPORATING :
SERIES-CONNECTED TRANSISTOR :
STRINGS :

This is a decision on the "Peition to determine that apparently omitted item was omitted item was actually deposited with USPTO" and "Response to Notice to File Missing Parts of Application - Filing Date Granted", both filed May 22, 2003, which are properly treated as a petition under 37 CFR §1.1.53(b), requesting the application, including figure thirty (30) be accorded a filing date of December 31, 2002 as part of the original disclosure.

The application was deposited on December 31, 2002. However, on April 3, 2003, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted (notice) stating that Figure thirty (30) appeared to have been omitted on filing. The notice further indicated that the filing fee would be required, and that the oath or declaration was not executed.

In response, on May 22, 2003, applicants filed the present petition. The petition is further accompanied by a copy of

figure thirty (30), along with a copy of applicants' postcard receipt acknowledging receipt of twenty-five (25) sheets of drawingsin the United States Patent and Trademark Office (Office) on December 31, 2002. Applicants request that the application, including figure thirty (30) be accorded a filing date of December 31, 2002.

Upon review of the record, the above-mentioned figure has not been located among the application papers. However, the evidence is convincing that the application papers deposited on December 31, 2002 included figure thirty (30), and the sheet of drawings containing this figure was subsequently misplaced in the Office.

Therefore, the application, including figure thirty (30) was complete on filing and entitled to a filing date of December 31, 2002 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The portion of the notice pertaining to the missing drawing mailed April 3, 2003 was sent in error. Therefore, no petition fee is necessary. The petition fee of $130 will be refunded to petitioner's Deposit Account.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 31, 2002, using the original application papers filed on that date, as well as figure thirty (30) submitted on May 22, 2003.

Petitioner has also submitted a declaration, which will not be entered as it cannot be accepted due to unsigned and undated alterations[1]. The period for reply has not been restarted.

Any inquiries related to this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

for Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

---

1 See MPEP 605.04(a).

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275 MIDDLEFIELD ROAD
MENLO PARK CA 94025

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AUG 16 2006

OFFICE OF PETITIONS

In re Application of :
Dominique M. Freeman et al. :
Application No. 10/335,099 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No.: 38187-2636 :

This is a decision on the petition under 37 CFR 1.182, filed March 1, 2006, to change the order of the names of the inventors.

The petition is **GRANTED**.

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

1. Dominique M. Freeman
2. Dirk Boecker
3. Don Alden

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

Additionally, petitioner's deposit account has been charged in the amount of $400 not $130, as was indicated in the petition as effective December 8, 2004, the fee for a petition under 37 CFR 1.182 was set at $400.

This matter is being referred to Technology Center 3734 for further examination.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/335,099	12/31/2002	3734	1535	38187-2636	32	53	22

CONFIRMATION NO. 9194

Heller Ehrman White & McAuliffe
275 Middlefield Road
Menlo Park, CA 94025

CORRECTED FILING RECEIPT

OC000000020032117

OC000000020032117

Date Mailed: 08/15/2006

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)

Dominique M. Freeman, La Honda, CA;
Dirk Boecker, Palo Alto, CA;
Don Alden, Sunnyvale, CA;

Assignment For Published Patent Application

Pelikan Technologies, Inc., Palo Alto, CA

Power of Attorney: The patent practitioners associated with Customer Number **25213**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/127,395 04/19/2002 PAT 7,025,774
and is a CIP of 10/237,261 09/05/2002

Foreign Applications

If Required, Foreign Filing License Granted: 02/14/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/335,099

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Method and apparatus for penetrating tissue

Preliminary Class

606

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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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).

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Title 37, Code of Federal Regulations, 5.11 & 5.15

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NOT GRANTED

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

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OFFICE OF PETITIONS

Wong Cabello Lutsch Rutherford & Brucculeri, LLP
20333 SH 249, Suite 600
Houston, Texas 77070

In re Application of
Rodman et al.
Application No. 10/335,108
Filed: December 31, 2002
Attorney Docket No. 199-0053US

: DECISION GRANTING PETITION

This decision is in response to applicants' "APPLICATION FOR PATENT TERM ADJUSTMENT" filed December 14, 2006.[1] Applicants' request that the amount of patent term adjustment (PTA) be adjusted from eight hundred and five (805) days to eight hundred and eight days at the time of the mailing of the notice of allowance.

Applicants' request for reconsideration of the patent term adjustment is **GRANTED.** The Office will adjust the PTA determination at the time of the mailing of the notice of allowance to eight hundred and eight days.

Applicants' allege that the three day reduction is an error because applicants did not engage in any unreasonable efforts to conclude prosecution of the application. Applicants assert that the Office delayed under 37 CFR 1.702(a)(1) by a period of 808 days as determined by the Office. Accordingly, applicants assert that the correct determination is eight hundred and eight days, not eight hundred and five days.

Applicants' arguments are persuasive. The Office has reviewed the PTA calculation for this application. On May 11, 2005, the Office mailed a letter of lost image document to applicants. Applicants responded on May 20, 2005. Three days letter, applicants submitted an IDS submission. Under the present factual scenario, the Office erred in assessing a three day reduction under 37 CFR 1.704(c)(8).

After the mailing of this decision, the Office will forward such file to the Office of Patent Publication for a prompt issuance of the patent application. The Office notes that any delays under 37 CFR 1.702(a)(4) or 37 CFR 1.702(b) will be added to the PTA determination at the time of the issuance of the application and will be included in the issue notification letter that is mailed to applicants approximately three weeks prior to the issuance of the application.

The Office has assessed the $200.00 fee pursuant to 37 CFR 1.18(e). No additional fees are required.

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

---

[1]Issue fee paid on December 14, 2006.

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

CC: Copy of Adjusted PAIR calculation

Day : Saturday
Date: 4/14/2007

PALM INTRANET

Time: 13:45:31

PTA Calculations for Application: 10/335108			
Application Filing Date:	12/31/2002	PTO Delay (PTO):	808
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	3
Post-Issue Petitions:	0	Total PTA (days):	808
PTO Delay Adjustment:	3		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
58	04/14/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	3		
51	09/15/2006	MAIL NOTICE OF ALLOWANCE			
50	09/02/2006	ISSUE REVISION COMPLETED			
49	09/02/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
48	09/02/2006	CASE DOCKETED TO EXAMINER IN GAU			
47	08/31/2006	NOTICE OF ALLOWABILITY			
46	08/23/2006	DATE FORWARDED TO EXAMINER			
45	08/17/2006	RESPONSE AFTER NON-FINAL ACTION			
44	05/17/2006	MAIL NON-FINAL REJECTION	808		-1
43	05/15/2006	NON-FINAL REJECTION			
42	05/23/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
41	01/13/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
40	09/08/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
39	05/08/2006	CASE DOCKETED TO EXAMINER IN GAU			
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33	05/20/2005	PRELIMINARY AMENDMENT			
32	05/20/2005	RESPONSE TO NOTICE OF LOST IMAGE			
31	05/11/2005	MAIL NOTICE OF LOST IMAGE DOCUMENT			

30	05/11/2005	NOTICE OF LOST IMAGE DOCUMENT			
29	01/26/2005	CASE DOCKETED TO EXAMINER IN GAU			
28	09/22/2004	CASE DOCKETED TO EXAMINER IN GAU			
27	01/13/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	09/25/2003	PRELIMINARY AMENDMENT			
25	08/02/2004	REFERENCE CAPTURE ON IDS			
24	09/08/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	08/02/2004	CASE DOCKETED TO EXAMINER IN GAU			
22	03/13/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
21	03/13/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
20	03/13/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	09/25/2003	PRELIMINARY AMENDMENT			
18	09/11/2003	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
17	01/13/2004	REFERENCE CAPTURE ON IDS			
15	09/25/2003	PRELIMINARY AMENDMENT			
14	09/08/2003	REFERENCE CAPTURE ON IDS			
12	08/05/2003	APPLICATION DISPATCHED FROM OIPE			
11	08/05/2003	APPLICATION IS NOW COMPLETE			
10	06/09/2003	ADDITIONAL APPLICATION FILING FEES			
9	06/09/2003	SMALL ENTITY STATEMENT (37 CFR 1.27)			
8	06/09/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	04/01/2003	CLEARED BY L&R (LARS)			
3	01/27/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	01/09/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/31/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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PO BOX 3822
CARY, NC 27519

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JAN 17 2008

OFFICE OF PETITIONS

In re Application of Turcan et al. :
Application No. 10/335,113 : Decision on Petition
Filing Date: December 31, 2002 :
Attorney Docket No. BS02529 :

This is a decision on the petition filed April 20, 2007, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application, the petition filed April 20, 2007, under 37 CFR 1.137(b).

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

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

Facts:

A final Office action was mailed September 7, 2006. The Office action set a three (3) month shortened statutory period for reply.

A reply was due on or before December 7, 2006.

As of April 20, 2007, a reply to the September 7, 2006 Office action was not matched with the file.

Prior to the mailing of a Notice of Abandonment, petitioner filed the instant petitions.

The petition under 37 CFR 1.181:

Petitioner states that a timely reply was timely mailed on October 5, 2006. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated October 5, 2006, which is on or before the due date of December 7, 2006.

One may prove the timely filing of papers by providing a showing in compliance with 37 CFR 1.8(b).

37 CFR 1.8(b) states,

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Petitioner has proven a reply was timely filed in response to the final Office action.

In order for the holding of abandonment to be withdrawn, petitioner must establish a *proper* reply was timely filed.

The proposed amendment was sent to the examiner to determine whether it placed the application in condition for allowance. The examiner determined that the proposed amendment raised new issues requiring further search or consideration. Since the amendment does not prima facie place the application in condition for allowance, it was an improper reply to the final Office action mailed on September 7, 2006.

The petition under 37 CFR 1.137(b):

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

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

(2) the petition fee,

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and

(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has not filed a proper response to the outstanding final Office action.

A proper reply to a final rejection consists only of:

(1) an amendment which *prima facie* placed the case in condition for allowance,
(2) a Notice of Appeal and the required fee,
(3) a RCE, or
(4) a continuation application.

As stated in the discussion of the petition under 37 CFR 1.181, the reply filed with the petition fails to prima facie place the application in condition for allowance. As a result, none of the above acceptable forms of reply listed above have been filed.

Any renewed petition should be accompanied by a proper reply in the form of a Notice of Appeal, RCE, or continuation application. If petitioner fails to reply in the form of a Notice of Appeal (and fee), proper RCE, or continuation application, it may be construed as an intentional delay in presenting a grantable petition, which may adversely affect petitioner's ability to revive the abandoned application.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

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 Advisory Action prepared by Examiner

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/335,113	Applicant(s) TURCAN ET AL.	
	Examiner William J. Deane	Art Unit 2614	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 April 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

PAGE 4/5 * RCVD AT 1/16/2008 11:59:26 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/42 * DNIS:2733203 * CSID: * DURATION (mm-ss):01-38

Continuation Sheet (PTO-303) **Application No. 10/335,113**

Continuation of 3. NOTE: As a formal matter the Amendement is ambiguous. Applicants indicate that all claims are as "previously presented', yet many of the claim limitations are underlined or italic. Applicants also have not provided a clean copy of the claims. It appears that applicants have not amended claims, but merely presented arguments. Normaly, if arguments are presented without amending the claims, such arguments would be entered. However, in the instant case, it is unclear as to applicants' intent.

With regard that claim 28 was not addressed, the examiner disagrees. Though the examiner did not point directly to claim 28, the passages to reject such limitations, as argued by applicant, were included in the Final Office Action. For example, Col. 4, lines 6 - 18, Col. 1, lines 14 - 18, Col. 4, lines 33 - 42, Col. 16, line 8 - 10 and lines 56 - 68 and Col. 26, line 45 - 68. In addition, note at least some call states at Col. 22, lines 21 - 40.

With respect to the delivery confirmation, in addition to the above, note Col. 4, lines 15 - 18 and Col. 18, lines 6 - 18 of Yacenda et al. and note the Abstract and paragraphs 300 and 400 of Tomkow, as noted in the Final Office Action. Obviously, the confirmation data is presented. If not, what is the point. A fair reading of both Yacenda et al. and Tomkow, shows that the instant claims are taught or disclosed in the cited references.

WILLIAM J. DEANE, JR.
PRIMARY EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

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PO BOX 3822
CARY, NC 27519

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JUN 24 2008

OFFICE OF PETITIONS

In re Application of Turcan et al. :
Application No. 10/335,113 : Decision on Petition
Filing Date: December 31, 2002 :
Attorney Docket No. BS02529 :

This is a decision on the renewed dpetition under 37 CFR 1.137(b), filed March 13, 2008, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed September 7, 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 on December 8, 2006.

The instant petition requests revival of the application.

Petitioner submitted the required petition fee of $1,500 during April 2007. Petitioner has submitted a reply to the final Office action in the form of a RCE and submission. Petitioner has stated 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 has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 2614 will be informed of the instant decision and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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

Paper No. 5

JOHNSON & ASSOCIATES PC
14625 BALTIMORE AVENUE
#282
LAUREL, MD 20707

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JUN 3 0 2003

OFFICE OF PETITIONS

In re Application of :
Lo et al :
Application No. 10/335,129 : ON PETITION
Filed: January 2, 2003 :
Attorney Docket No. JA-GAR231TW/US 13 :

This decision concerns the June 9, 2003 petition under 37 CFR 1.182, in effect requesting that an allegedly omitted page of the specification be accorded the same filing date as the application. The petition is being properly treated as a petition under 37 CFR 1.53(e).

The petition is **GRANTED.**

As stated in the April 8, 2003 Notice to File Missing Parts of Nonprovisional Application ("4/8/03 Notice"), the application, which had been accorded a January 2, 2003 filing date, did not appear to contain a page 2 in the specification.

In response, the instant petition was filed, contending that page 2 of the specification had indeed been filed on January 2, 2003. In support, the petition is accompanied by a copy of postcard receipt date-stamped by the PTO, indicating that on January 2, 2003, a 10-page specification was filed with the remainder of the application papers. The petition also encloses a copy of the originally filed 10-page specification.

The version of the specification on file at the PTO and that submitted with the petition are identical in contents, except that the latter has revised margins as required by the 4/8/03 Notice. Each of the versions contains 10 pages in total, with the numbered pages starting at page 3, and the first 2 pages without page numbers.

In view of the above, the Office concludes that page 2 was not omitted from the filed application. However, the 4/8/03 Notice was correct in stating that page 2 of the specification appeared to have been omitted. Therefore, this Notice was properly mailed and will not be withdrawn with respect to an omitted page of specification.

A preliminary amendment adding a page number to page 2 of the specification should be filed prior to the first Office action on the merits.

Finally, the Office acknowledges receipt with the petition of: the $130 petition fee, the $375 basic filing fee (small entity) and the $65 surcharge (small entity) for late filing of an acceptable oath or declaration.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of January 2, 2003, using the 10-page specification filed with the petition on June 9, 2003.

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

Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions

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HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

In re Application of :
Freeman, Boecker and Alden : DECISION ON PETITION
Application No. 10/335,142 :
Filed: December 31, 2002 :
Attorney Docket No. 38187-2633 :

This is a decision on the petition under 37 CFR 1.182, filed February 22, 2006, to change the order of the names of the inventors.

The petition is **granted**.

The Office of Petitions has changed the order of the names of the inventors in the Office computer records as requested in the present petition. A corrected filing receipt accompanies this decision.

The fee for a petition under 37 CFR 1.182 is $400.00. Therefore, the Office will charge this amount to the Deposit Account, as authorized.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/335,142	12/31/2002	3736	1505	38187-2633	32	101	11

CONFIRMATION NO. 8813

Heller Ehrman White & McAuliffe
275 Middlefield Road
Menlo Park, CA 94025

CORRECTED FILING RECEIPT

OC000000020280617

Date Mailed: 09/01/2006

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

Applicant(s)

Dominique M. Freeman, La Honda, CA;
Dirk Boecker, Palo Alto, CA;
Don Alden, Sunnyvale, CA;

Assignment For Published Patent Application

Pelikan Technologies, Inc., Palo Alto, CA

Power of Attorney:

Paul Davis--29294

Domestic Priority data as claimed by applicant

This application is a CIP of 10/127,395 04/19/2002 PAT 7,025,774
and is a CIP of 10/237,261 09/05/2002

Foreign Applications

If Required, Foreign Filing License Granted: 02/14/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/335,142

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Method and apparatus for penetrating tissue

Preliminary Class

600

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/26/07

Paper No.: ____

TO SPE OF : ART UNIT 2831

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/335144 Patent No.: 6924970B2

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: The last two items on the Certificate of Corrections should read -- The low loop inductance capacitor of claim... --

Allan A. Burchard 2831

SPE Art Unit

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,924,970 B2

APPLICATION NO.: 10/335,144

ISSUE DATE : 08/02/2005

INVENTOR(S) : Mehr 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 Claims:
Column 1, line 57, "...plates 10 and 14." should read –...plates 10 and 12.–;
Column 1, line 61, "...10 and 14,..." should read –...10 and 12,...–;
Column 5, line 38, "...of claim1 wherein..." should read –...of claim1, wherein..." –;
Column 6, line 13, "The capacitor of claim ..." should read –The electronic device of claim ...–;
Column 6, line 16, "The capacitor of claim ..." should read –The electronic device of claim ...–;
Column 6, line 19, "The capacitor of claim ..." should read –The electronic device of claim ...–;
Column 6, line 22, "The capacitor of claim ..." should read –The electronic device of claim ...–;
Column 6, line 25, "The capacitor of claim ..." should read –The electronic device of claim ...–;
Column 6, line 27, "The capacitor of claim ..." should read –The electronic device of claim ...–;
Column 6, line 30, "...claim 9 wherein ..." should read – ... claim 9, wherein ...–;
Column 6, line 55, "The capacitor of claim ..." should read –The low loop inductance of claim ...–; and
Column 6, line 58, "The capacitor of claim ..." should read –The low loop inductance of claim ...–.

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

SCHWABE, WILLIAMSON & WYATT, P.C.
1211 SW Fifth Ave., Suite 1900
Portland, OR 97204

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.

NOV 15 2006

a dielectric material disposed between the first electrodes and the second electrodes, the first and second electrodes and the dielectric material define a perimeter;

a conductive first surface disposed about at least a portion of the perimeter and electrically interconnected with the first electrodes; and

at least one conductive second surface extending through the plurality of first and second electrodes, the second electrodes electrically interconnecting with the at least one conductive second surface, and the at least one conductive second surface being horizontally spaced equidistant from any point on the conductive first surface to reduce a loop inductance associated with the capacitor by an amount proportional to the distance between the conductive first surface and the at least one conductive second surface, and wherein the second conductive surface comprises a first terminal adapted to interface to a microelectronic device and wherein the first terminal includes a raised portion that overlaps at least a part of the dielectric material.

2. The capacitor of claim 1, wherein the first surface and the at least one second surface comprise a terminal end adapted to electrically interconnect with a conductive path.

3. The capacitor of claim 1, wherein the plurality of first electrodes are substantially perpendicular to the at least one second surface.

4. The capacitor of claim 1, wherein the plurality of second electrodes are substantially perpendicular to the at least one second surface.

5. The capacitor of claim 1, wherein the at least one second surface is cylindrical and substantially perpendicular to the layers of first and second electrodes.

6. The capacitor of claim 1, further comprising a dielectric material encapsulating the capacitor.

7. The capacitor of claim 1, wherein the at least one conductive second surface is substantially hollow to facilitate inter-cooling of the capacitor.

8. The capacitor of claim 1 wherein the first conductive surface comprises a second terminal adapted to interface to the microelectronic device.

9. An electronic device, comprising:

a power source;

a microelectronic device;

an electrically conductive path electrically interconnecting the microelectronic device to the power source;

a capacitor electrically interconnected with the electrically conductive path between the power source and the microelectronic device, the capacitor further comprising

a plurality of conductive first electrodes layered and spaced apart by a predetermined distance;

a plurality of conductive second electrodes interleaved with the first electrodes;

a dielectric material disposed between the first electrodes and the second electrodes, the first and second electrodes and the dielectric material define a perimeter;

a conductive first surface disposed about at least a portion of the perimeter and electrically interconnect with the first electrodes; and

at least one conductive second surface extending through the plurality of first and second electrodes, the second electrodes electrically interconnecting with the at least one conductive second surface, and the at least one conductive second surface being horizontally spaced equidistant from any point on the conductive first surface to reduce a loop inductance associated with the capacitor by an amount proportional to the distance between the conductive first surface and the at least one conductive second surface, and wherein the second conductive surface comprises a first terminal adapted to interface to a microelectronic device wherein the first terminal includes a raised portion that overlaps at least a part of the dielectric material.

10. The capacitor of claim 9, wherein the first surface and the at least one second surface comprise a terminal end adapted to electrically interconnect with a conductive path.

11. The capacitor of claim 9, wherein the plurality of first electrodes are and substantially perpendicular to the at least one second surface.

12. The capacitor of claim 9, wherein the plurality of second electrodes are substantially perpendicular to the at least one second surface.

13. The capacitor of claim 9, wherein the at least one second surface is cylindrical and substantially perpendicular to the layers of first and second electrodes.

14. The capacitor of claim 9, further comprising a dielectric material encapsulating the capacitor.

15. The capacitor of claim 9, wherein the at least one conductive second surface is substantially hollow to facilitate inter-cooling of the capacitor.

16. The electronic device of claim 9 wherein the first conductive surface comprises a second terminal adapted to interface to the microelectronic device.

17. A low loop inductance capacitor, comprising:

a plurality of interleaved first and second electrodes defining a generally rectangular body:

a dielectric material disposed between each first and second electrode;

a first terminal surrounding the plurality of first and second electrodes, the first surface being electrically interconnected with the first electrodes;

two second terminals extending through the plurality of first and second electrodes, the two second terminals being electrically interconnected with the second electrodes, and at least one of the two second terminals adapted to interface to a microelectronic device wherein the at least one terminal includes a raised portion that overlaps at least a portion of the dielectric material, the two second terminals being positioned within the body such that they are spaced an equal distance from a corresponding nearest point on the first terminal to reduce a loop inductance that is proportional to the distance between the first terminal and the two second terminals.

18. The capacitor of claim 17, wherein the loop inductance of the capacitor is substantially half of what it would be if only one second terminal was disposed in the body.

19. The capacitor of claim 17, wherein the two second terminals are substantially hollow to facilitate inter-cooling of the capacitor.

* * * * *

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OFFICE OF PETITIONS

In re Application of :
Dominique M. Freeman et al. :
Application No. 10/335,182 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No.: 38187-2652 :

This is a decision on the petition under 37 CFR 1.182, filed March 1, 2006, to change the order of the names of the inventors.

The petition is **GRANTED**.

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

1. Dominique M. Freeman
2. Dirk Boecker
3. Don Alden

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

Additionally, petitioner's deposit account has been charged in the amount of $400 not $130, as was indicated in the petition as effective December 8, 2004, the fee for a petition under 37 CFR 1.182 was set at $400.

This matter is being referred to Technology Center 3736 for further examination.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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In re Application of :
Dominique M. Freeman et al. :
Application No. 10/335,183 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No.: 38187-2648 :

This is a decision on the petition under 37 CFR 1.182, filed March 1, 2006, to change the order of the names of the inventors.

The petition is **GRANTED**.

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

1. Dominique M. Freeman
2. Dirk Boecker
3. Don Alden

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

This matter is being referred to Technology Center 3734 for further examination.

Additionally, petitioner's deposit account has been charged in the amount of $400 not $130, as was indicated in the petition as effective December 8, 2004, the fee for a petition under 37 CFR 1.182 was set at $400.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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MINNEAPOLIS MN 55402

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FEB 15 2006

OFFICE OF PETITIONS

In re Application of :
Koorosh Zaerpoor :
Application No. 10/335,188 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No. 884.821US1 :

This is a decision on the petition, filed February 13, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 14, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2829 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/9/04

TO SPE OF : ART UNIT 2815

SUBJECT : Request for Certificate of Correction on Patent No.: 6,750,549 10/335,262

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:

_____

_____

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2891
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In re Application of :
Dominique M. Freeman et al. :
Application No. 10/335,211 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No.: 38187-2643 :

This is a decision on the petition under 37 CFR 1.182, filed March 1, 2006, to change the order of the names of the inventors.

The petition is **GRANTED**.

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

1. Dominique M. Freeman
2. Dirk Boecker
3. Don Alden

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

Additionally, petitioner's deposit account has been charged in the amount of $400 not $130, as was indicated in the petition as effective December 8, 2004, the fee for a petition under 37 CFR 1.182 was set at $400.

This matter is being referred to Technology Center 3734 for further examination.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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In re Application of :
Freeman, et al. :
Application No. 10/335,212 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No. 38187-2646 :

This is a decision on the petition under 37 CFR 1.182, filed March 1, 2006, to change the order of the names of the inventors.

The petition is granted.

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

1. Dominique M. Freeman

2. Dirk Boecker

3. Don Alden

The $400.00 petition fee (37 CFR 1.17(f)) will be charged to deposit account no. 08-1641.

This application is being returned to Technology Center 3700 for further examination in due course. A corrected filing receipt is enclosed.

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

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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
10/335,212	12/31/2002	3736	2027	38187-2646	32	173	8

CONFIRMATION NO. 5749

Heller Ehrman White & McAuliffe
275 Middlefield Road
Menlo Park, CA 94025

CORRECTED FILING RECEIPT

OC000000018537422

Date Mailed: 04/14/2006

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)

Dominique M. Freeman, La Honda, CA;
Dirk Boecker, Palo Alto, CA;
Don Alden, Sunnyvale, CA;

Assignment For Published Patent Application

Pelikan Technologies, Inc., Palo Alto, CA

Power of Attorney:

Paul Davis--29294

Domestic Priority data as claimed by applicant

This application is a CIP of 10/127,395 04/19/2002 PAT 7,025,774
and is a CIP of 10/237,261 09/05/2002

Foreign Applications

If Required, Foreign Filing License Granted: 02/13/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/335,212

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Method and apparatus for penetrating tissue

Preliminary Class

600

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

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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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MENLO PARK CA 94025-1105

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OFFICE OF PETITIONS

In re Patent No. 7,547,287	:	DECISION
Freeman et al.	:	DISMISSING REQUEST FOR
Issue Date: June 16, 2009	:	RECONSIDERATION OF PATENT
Application No. 10/335,212	:	TERM ADJUSTMENT
Filed: December 31, 2002	:	UNDER 37 CFR 1.705
Attorney Docket No.	:	
38187-2646.US	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. 1.705(b)," filed on August 11, 2009, which is treated under 37 CFR 1.705(d). Patentees request that the Patent Term Adjustment for the above-identified patent be increased by 338 days from 494 days to 832 days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 494 days.

BACKGROUND

On June 16, 2009, the above-identified application matured into U.S. Patent No. 7,547,287. The Patent issued with a revised Patent Term Adjustment of 494 days. On August 11, 2009, the instant request for reconsideration was filed.

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 (or, in an international application, the date that the national stage commenced under 35 U.S.C. 371(b) or (f), is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

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 beginning on the application filing date, December 31, 2002, and ending on the day prior to the date of filing of a request for continued examination (RCE), February 21, 2007 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). The relevant period ends with the filing of the RCE as the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) does not include the period subsequent to the filing of the RCE. 35 U.S.C. 154(b)(1)(B)(i).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 751 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the request for continued examination. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 417 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

The 417 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 751 days of patent term adjustment under 37 CFR

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) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The Office determined that the 417 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) overlaps with the 751 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) accorded prior to the filing of the request for continued examination. As such, the Office allowed only entry of the adjustment of 751 days. An additional period of Office delay of 20 days was entered pursuant to 37 CFR 1.702(a)(4) for issuance of the patent four months and 20 days after the payment of the issue fee on January 27, 2009. Given the applicant delay of 277 days, the patent issued with a revised patent term adjustment of 494 ((751 + 20) - 277) days.

On August 11, 2009, patentees timely submitted this request for reconsideration of patent term adjustment (with authorization to charge the required fee), asserting that the correct number of days of Patent Term Adjustment is 832 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). Patentee asserts that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintains that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 1109 (771 + 418 - 80 overlap) days as these periods do not occur on the same day. Considering the applicant delay of 277 days, patentees assert entitlement to 832 (1109 - 277) days of patent term adjustment.

OPINION

Preliminarily, it is noted that patentees' calculation of the period of delay under 37 CFR 1.702(b) is incorrect. Pursuant to 37 CFR 1.702(b)(1), any time consumed by continued examination is excluded from the period of three year delay. As an RCE was filed on February 22, 2007, the period consumed by continued examination begins on February 22, 2007. The period of delay under the three year provision is the period beginning December 31, 2005, the date which is three years from the date the application was filed, and ending on the February 21, 2007, the day prior to the date the RCE was filed, or 417 days.

Regardless, patentees' interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A).

1.702(a)(1). Entry of both the 751 days and the 417 days is neither permitted nor warranted. Considering the 20 day period of delay pursuant to 37 CFR 1.702(a)(4), and the applicant delay of 221 days, the actual number of days issuance of the patent was delayed is 494 (751 + 20 - 277).

CONCLUSION

In view thereof, no change will be made in the revised determination of patent term adjustment at the time of the issuance of the patent.

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

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood, at (571) 272-3231.

C. Y. Donnell for

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MENLO PARK CA 94025

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JUN 16 2006
OFFICE OF PETITIONS

In re Application of :
Dominique M. Freeman et al. :
Application No. 10/335,215 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No.: 38187-2634 :

This is a decision on the petition under 37 CFR 1.182, filed March 1, 2006, to change the order of the names of the inventors.

The petition is **GRANTED**.

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

1. Dominique M. Freeman
2. Dirk Boecker
3. Don Alden

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

Additionally, petitioner's deposit account has been charged in the amount of $400 not $130, as was indicated in the petition as effective December 8, 2004, the fee for a petition under 37 CFR 1.182 was set at $400.

This matter is being referred to Technology Center 3736 for further examination.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE, 7TH FLOOR
SAN DIEGO CA 92122

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SEP 1 0 2008

OFFICE OF PETITIONS

In re Application of :
Dominique M. FREEMAN, et al :
Application No. 10/335,215 : DECISION ON PETITION
Filed: December 31, 2002 : TO WITHDRAW
Attorney Docket No. 38187-2634 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 10, 2008.

The request is **APPROVED**.

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

The request was signed by Leslie B. Overman on behalf of all attorneys associated with Customer Number 25213.

All attorneys of record associated with Customer Number 25213 have been withdrawn.

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: DIRK BOECKER
1652 CASTILLEJA AVENUE
PALO ALTO, CA 94306

cc: GOODWIN PROCTER LLP
ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK, CA 94025-1105

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Goodwin Procter LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park CA 94025-1105

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JUN 0 8 2009

OFFICE OF PETITIONS

In re Application of :
Freeman et al. :
Application No.10/335,215 : DECISION ON PETITION
Filed: December 31, 2002 :
Title: Method and Apparatus For Penetrating Tissue :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 1, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit a reply to the Notice to File Corrected Application Papers on or before November 19, 2008, as required by the Notice, mailed September 24, 2008. A Notice of Abandonment was mailed of December 3, 2008.

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

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

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GOODWIN PROCTER LLP
ATTN: PATENT ADMINISTRATOR
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MENLO PARK CA 94025-1105

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JUN 07 2010

OFFICE OF PETITIONS

In re Patent No. 7,563,232
Issued: July 21, 2009
Application No. 10/335,215
Filed: December 31, 2002
Attorney Docket No. PEL-2634

:DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed September 16, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from 781 days to 1229 days. Since the request is after issuance, the request is being treated under 37 CFR 1.705(d). Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).[1]

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 eight hundred thirty-six (836) days is **GRANTED** to the extent indicated herein.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on January 17, 2005 and ends on March 22, 2007, the day before the RCE was filed, the B delay is 446 days, not 447 days See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 836, not 1229 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.

---

[1]Reconsidered in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred thirty-six (836)** days.

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

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,563,232 B2

DATED : July 21, 2009

INVENTOR(S) : Dominique M. Freeman

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 (781) days

Delete the phrase "by 781 days" and insert – by 836 days--

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JUN 16 2006
OFFICE OF PETITIONS

In re Application of :
Dominique M. Freeman et al. :
Application No. 10/335,217 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No.: 38187-2645 :

This is a decision on the petition under 37 CFR 1.182, filed March 1, 2006, to change the order of the names of the inventors.

The petition is **GRANTED**.

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

1. Dominique M. Freeman
2. Dirk Boecker
3. Don Alden

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

Additionally, petitioner's deposit account has been charged in the amount of $400 not $130, as was indicated in the petition as effective December 8, 2004, the fee for a petition under 37 CFR 1.182 was set at $400.

This matter is being referred to Technology Center 3734 for further examination.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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JUN 16 2006
OFFICE OF PETITIONS

In re Application of :
Dominique M. Freeman et al. :
Application No. 10/335,218 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No.: 38187-2642 :

This is a decision on the petition under 37 CFR 1.182, filed March 1, 2006, to change the order of the names of the inventors.

The petition is **GRANTED**.

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

1. Dominique M. Freeman
2. Dirk Boecker
3. Don Alden

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

Additionally, petitioner's deposit account has been charged in the amount of $400 not $130, as was indicated in the petition as effective December 8, 2004, the fee for a petition under 37 CFR 1.182 was set at $400.

This matter is being referred to Technology Center 3734 for further examination.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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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
10/335,218	12/31/2002	3734	1535	38187-2642	32	53	22

CONFIRMATION NO. 5753
CORRECTED FILING RECEIPT
OC000000019298216
OC000000019298216

25213
HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025-3506

Date Mailed: 06/16/2006

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)

Dirk Boecker, Palo Alto, CA;
Don Alden, Sunnyvale, CA;
Dominique M. Freeman, La Honda, CA;

Assignment For Published Patent Application

Pelikan Technologies, Inc., Palo Alto, CA

Power of Attorney: The patent practitioners associated with Customer Number **25213**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/127,395 04/19/2002 PAT 7,025,774
and is a CIP of 10/237,261 09/05/2002

Foreign Applications

If Required, Foreign Filing License Granted: 02/13/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/335,218

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Method and apparatus for penetrating tissue

Preliminary Class

606

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

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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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JUN 16 2006

OFFICE OF PETITIONS

In re Application of :
Dominique M. Freeman et al. :
Application No. 10/335,219 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No.: 38187-2637 :

This is a decision on the petition under 37 CFR 1.182, filed March 1, 2006, to change the order of the names of the inventors.

The petition is **GRANTED**.

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

1. Dominique M. Freeman
2. Dirk Boecker
3. Don Alden

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

Additionally, petitioner's deposit account has been charged in the amount of $400 not $130, as was indicated in the petition as effective December 8, 2004, the fee for a petition under 37 CFR 1.182 was set at $400.

This matter is being referred to Technology Center 3734 for further examination.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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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
10/335,219	12/31/2002	3734	1403	38187-2637	32	99	9

CONFIRMATION NO. 5754

Heller Ehrman White & McAuliffe
275 Middlefield Road
Menlo Park, CA 94025

CORRECTED FILING RECEIPT

OC000000019298249

OC000000019298249

Date Mailed: 06/16/2006

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)

Dirk Boecker, Palo Alto, CA;
Don Alden, Sunnyvale, CA;
Dominique M. Freeman, La Honda, CA;

Assignment For Published Patent Application

Pelikan Technologies, Inc., Palo Alto, CA

Power of Attorney: The patent practitioners associated with Customer Number **25213**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/127,395 04/19/2002 PAT 7,025,774
and is a CIP of 10/237,261 09/05/2002

F reign Applications

If Required, Foreign Filing License Granted: 02/13/2003

The country code and number of your priority application, to be used for filing abroad under the Paris C nvention, is US10/335,219

Projected Publication Date: Not Applicable

Non-Publicati n Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Method and apparatus for penetrating tissue

Preliminary Class

606

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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Title 37, Code of Federal Regulations, 5.11 & 5.15

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NOT GRANTED

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UNITED STATES PATENT AND TRADEMARK OFFICE

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HELLER EHRMAN WHITE & MCAULIFFE
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025

COPY MAILED
JUN 16 2006
OFFICE OF PETITIONS

In re Application of :
Dominique M. Freeman et al. :
Application No. 10/335,220 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No.: 38187-2640 :

This is a decision on the petition under 37 CFR 1.182, filed March 1, 2006, to change the order of the names of the inventors.

The petition is **GRANTED**.

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

1. Dominique M. Freeman
2. Dirk Boecker
3. Don Alden

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

Additionally, petitioner's deposit account has been charged in the amount of $400 not $130, as was indicated in the petition as effective December 8, 2004, the fee for a petition under 37 CFR 1.182 was set at $400.

This matter is being referred to Technology Center 3734 for further examination.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
10/335,220	12/31/2002	3734	1484	38187-2640	32	52	21

CONFIRMATION NO. 5755

Heller Ehrman White & McAuliffe
275 Middlefield Road
Menlo Park, CA 94025

CORRECTED FILING RECEIPT

OC000000019298308

OC000000019298308

Date Mailed: 06/16/2006

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)

Dirk Boecker, Palo Alto, CA;
Don Alden, Sunnyvale, CA;
Dominique M. Freeman, La Honda, CA;

Assignment For Published Patent Application

Pelikan Technologies, Inc., Palo Alto, CA

P wer of Attorney: The patent practitioners associated with Customer Number **25213**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/127,395 04/19/2002 PAT 7,025,774
and is a CIP of 10/237,261 09/05/2002

Foreign Applications

If Required, Foreign Filing License Granted: 02/13/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/335,220

Pr jected Publication Date: Not Applicable

Non-Publicati n Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Method and apparatus for penetrating tissue

Preliminary Class

606

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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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

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JUN 30 2006

KLAUBER & JACKSON
411 HACKENSACK AVENUE
HACKENSACK NJ 07601

In re Application of
Telang et al.
Serial No.: 10/335,223
Filed: December 31, 2002
Attorney Docket No.: 1110-1-002N

: SUSPENSION OF ACTION

This letter is in response to the petition under 37 CFR 1.103(a), received June 5, 2006, seeking suspension of action in this application for a period of six months wherein 37 CFR 1.103(a) states:

> **§ 1.103 Suspension of action by the Office.**
>
> (a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph paragraph must also include:
>
> (1) A showing of good and sufficient cause for suspension of action; and
> (2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office.

BACKROUND

A review of the file shows that in response to the restriction requirement mailed December 1, 2205, applicants elected Group II with traverse on June 6, 2006.

DISCUSSION

Applicants seek suspension of action in the petition of June 5, 2006 because applicants indicate they must cultivate proper cell lines in order to make a deposit of biological material and that a period of several additional months is necessary in order to complete a suitable deposit due to the length of time involved in preparing a suitable biological deposit and the technical difficulties involved with these particular cell lines. However, applicants have not provided any reasons why the cell lines have not been cultivated to date as this application was filed 3 ½ years ago.
-- MPEP 2404 and 37 CFR 1.804 each specify the time for mailing an original deposit to fulfill the requirement of 35 U.S.C. 112:

"...For the reasons discussed throughout this section, it is recommended that a deposit be made before the filing date of the application. However, for the purposes of complying with the requirements of 35 U.S.C. 112, a deposit of a biological material may be made at any time

before filing the application for patent or during the pendency of the application subject to the conditions of 37 CFR 1.809. Where a deposit is needed to satisfy the requirements of 35 U.S.C. 112 and it is made during the pendency of the application, it must be made no later than the time period set by the examiner at the time the Notice of Allowance and Issue Fee Due is mailed. A necessary deposit need not be made by an applicant until the application is in condition for allowance so long as the applicant provides a written assurance that an acceptable deposit will be made on or before the payment of the issue fee. This written assurance must provide sufficiently detailed information to convince the examiner that there is no outstanding issue Regarding deposits that needs to be resolved."

The request for suspension is unwarranted particularly since the Office has not yet prepared any action on the merits other than for restriction purposes, no requirement for the deposit of biological material has been made, and the Office has not indicated the application is in condition for allowance nor mailed the Notice of Allowance and Issue Fee Due.

Further, merely stating more time is necessary to cultivate proper cell lines is not good and sufficient cause for suspension as required by 37 CFR 1.103 (a) (1). More reasons would have to be provided to satisfy the criteria of showing good and sufficient cause as required by part (1) of 37 CFR 1.103 (a).

DECISION

For the above reasons, the petition under 37 CFR 1.103 (a) requesting suspension of action for a period of six months is **DENIED**.

This application will be forwarded to the examiner for consideration of the election filed June 5, 2006.

Should there be any questions with respect to this decision, please contact 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 the general Office facsimile number 703-872-9306.

John LeGuyader
Director, Technology Center 1600

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ALEXANDRIA, VA 22313-1450
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DREIER LLP
Susan Formicola
499 PARK AVE
NEW YORK NY 10022

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DEC 0 8 2008

OFFICE OF PETITIONS

In re Application of :
Raanan, et al. : DECISION ON PETITION
Application No. 10/335,224 :
Filed: December 31, 2002 :
Atty. Dkt. No.: 600177-094 :

The above-identified application has been forwarded to the Office of Petitions for consideration of the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed July 25, 2008.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby GRANTED.

The application was held abandoned for failure to timely submit a proper reply to the non-final Office action mailed December 12, 2007. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed June 24, 2008.

Petitioners assert that a response to the non-final Office was timely submitted electronically on February 8, 2008. Petitioners have provided as proof of submission and proof of receipt of the response, a copy of the response purportedly submitted. The copy of the response bears a certificate of transmission date of February 8, 2008, in accordance with 37 CFR 1.8. Further, petitioners have provided a copy of a USPTO Auto-Reply Facsimile Transmission acknowledging receipt of the response on February 8, 2008.

The original response submitted February 8, 2008 has not been located in the application file. However, in view of the evidence presented, the petition to withdraw the holding of abandonment is hereby GRANTED.

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

This application is being forwarded to the Technology Center 2131 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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

JUL 14 2003

UR
PAPER NO. 5

In re Application of
Edward Jackson
Serial Number: 10/335,227
Filed: December 30, 2002
For: SULPHUROUS ACID GENERATOR WITH AIR INJECTOR

PETITION UNDER
M.P.E.P.708.02,V

This is in response to the petition filed, April 07, 2003 requesting that the above-identified application be granted Special Status under section 708.02 (V) of the MPEP and 37 CFR 1.102(c) **(no fee required)**.

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

Accordingly the petition is **GRANTED.**

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Kirton & McConkie
1800 Eagle Gate Tower
60 East South Temple
Salt Lake city, UT 84111

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GOODWIN PROCTER LLP
ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK CA 94025-1105

MAILED

JAN 29 2009

OFFICE OF PETITIONS

In re Application of :
Dominique M. Freeman et al :
Application No. 10/335,240 : DECISION ON PETITION
Filed: December 31, 2002 :
Attorney Docket No. 38187-2650.US :

This is a decision on the petition under 37 CFR 1.182, filed December 11, 2008, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

This application is being referred to Technology Center AU 3734 for examination in due course.

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

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/335,240	12/31/2002	3734	1916	38187-2650.US	170	6

CONFIRMATION NO. 8800

CORRECTED FILING RECEIPT

77845
Goodwin Procter LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park, CA 94025-1105

Date Mailed: 01/28/2009

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)

Dominique M. Freeman, La Honda, CA;
Don Alden, Sunnyvale, CA;
Dirk Boecker, Palo Alto, CA;

Assignment For Published Patent Application

Pelikan Technologies, Inc., Palo Alto, CA

Power of Attorney: The patent practitioners associated with Customer Number 77845

Domestic Priority data as claimed by applicant

This application is a CIP of 10/127,395 04/19/2002 PAT 7,025,774
and is a CIP of 10/237,261 09/05/2002 PAT 7,344,507

Foreign Applications

If Required, Foreign Filing License Granted: 02/13/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/335,240**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Method and apparatus for penetrating tissue

Preliminary Class

606

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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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

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NOT GRANTED

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HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

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SEP 01 2006

OFFICE OF PETITIONS

In re Application of :
Freeman, Boecker and Alden :
Application No. 10/335241 :
Filed: December 31, 2002 :
Attorney Docket No. 38187-2647 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed March 1, 2006, to change the order of the names of the inventors.

The petition is **granted**.

The Office of Petitions has changed the order of the names of the inventors in the Office computer records as requested in the present petition. A corrected filing receipt accompanies this decision.

The fee for a petition under 37 CFR 1.182 is $400.00. Therefore, the Office will charge this amount to the Deposit Account, as authorized.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

Copied from 10355241 on 09/12/2006

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/335,241	12/31/2002	3734	1091	38187-2647	32	83	5

CONFIRMATION NO. 8832

25213
HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025-3506

CORRECTED FILING RECEIPT

OC000000020280614

Date Mailed: 09/01/2006

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

Applicant(s)

Dominique M. Freeman, La Honda, CA;
Dirk Boecker, Palo Alto, CA;
Don Alden, Sunnyvale, CA;

Assignment For Published Patent Application

Pelikan Technologies, Inc., Palo Alto, CA

Power of Attorney: The patent practitioners associated with Customer Number **25213**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/127,395 04/19/2002 PAT 7,025,774
and is a CIP of 10/237,261 09/05/2002

Foreign Applications

If Required, Foreign Filing License Granted: 02/14/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/335,241

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Copied from 10355241 on 09/12/2006

** SMALL ENTITY **

Title

Method and apparatus for penetrating tissue

Preliminary Class

606

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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.

Copied from 10355241 on 09/12/2006

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).

Copied from 10355241 on 09/12/2006

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

PAULEY PETERSEN & ERICKSON
2800 WEST HIGGINS ROAD
HOFFMAN ESTATES IL 60195

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SEP 12 2005

OFFICE OF PETITIONS

In re Application of :
Prasad S. Potnis :
Application No. 10/335,244 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No. K-C 17124 :

This is a decision on the petition, filed September 6, 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 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 should be directed to the undersigned at (571) 272-3208.

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
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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MICHAEL BEST & FRIENDRICH, LLP
100 E WISCONSIN AVENUE
MILWAUKEE, WI 53202

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APR 2 9 2005

OFFICE OF PETITIONS

In re Application of :
Harold Scott Carr :
Application No. 10/335,249 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No. 048576-9009 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 18, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed October 22, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 23, 2005.

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

This matter is being forwarded to the Publishing Division.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94024

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AUG 0 4 2006
OFFICE OF PETITIONS

In re Application of	:	
Dirk Boecher et al	:	
Application No. 10/335,252	:	ON PETITION
Filed: December 31, 2002	:	
Attorney Docket No. 38187-2641	:	

This is a decision on the petition under 37 CFR 1.182, filed March 1, 2006, to change the order of inventorship.

The petition is **granted.**

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

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/335,252	12/31/2002	3734	1469	38187-2641	32	97	11

HELLER EHRMAN WHITE & MCAULIFFE LLP
275 Middlefield Road
Menlo Park, CA 94025-3506

CONFIRMATION NO. 8835
CORRECTED FILING RECEIPT
OC000000019885893
OC000000019885893

Date Mailed: 08/03/2006

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)

Dominique M. Freeman, La Honda, CA;
Dirk Boecker, Palo Alto, CA;
Don Alden, Sunnyvale, CA;

Assignment For Published Patent Application

Pelikan Technologies, Inc., Palo Alto, CA

Power of Attorney:

Paul Davis--29294

Domestic Priority data as claimed by applicant

This application is a CIP of 10/127,395 04/19/2002 PAT 7,025,774

Foreign Applications

If Required, Foreign Filing License Granted: 02/19/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/335,252

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Method and apparatus for penetrating tissue

Preliminary Class

606

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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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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Scheef & Stone, LLP
5956 Sherry Lane
Suite 1400
Dallas, TX 75225

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JUL 25 2006
OFFICE OF PETITIONS

In re Application of :
John Patrick Wong :
Application No. 10/335,254 : DECISION ON PETITION
Filed: December 31, 2002 : TO WITHDRAW
Attorney Docket No. NC34568 (9021.137) : 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 7, 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, **assignee's request**, do not meet any the conditions set forth in 37 CFR 10.40.

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

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

for David Bucci
Petitions Examiner
Office of Petitions

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

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In re Application of :
Wong, et al. : DECISION ON APPLICATION
Application No. 10/335,254 : FOR PATENT TERM ADJUSTMENT
Filed: December 31, 2002 :
Atty. Dkt. No.: 042933/302556 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED ON NOTICE OF ALLOWANCE (37 C.F.R. § 1.705(b) and (c)," filed November 11, 2008.

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

The Determination of Patent Term Adjustment mailed October 24, 2008 indicated that the application is entitled to an adjustment of 343 days. Applicants argue that the correct adjustment is 704 days. Applicants contest the reduction of 195 days assessed in connection with the reply filed December 20, 2007. Applicants further argue that the application is entitled to an additional adjustment of 166 days in connection with the re-mailing of the non-final Office action on September 24, 2007.

The correct PTA at the time of the allowance is 645 days.

An adjustment of 585 days was properly accorded in connection with the mailing of the non-final Office action on October 6, 2005. *See*, 37 CFR 1.702(a)(1) and 1.703(a)(1).

The Office neglected to assess a reduction of 59 days in connection with the supplemental reply filed February 8, 2007. The reduction commenced December 12, 2006, the day after the date that the initial reply was filed, and ended February 8, 2007, the date that the supplemental reply (drawings) was filed. *See*, 37 CFR 1.704(c)(8).

A non-final Office action was mailed March 8, 2007 to an improper correspondence address. The non-final Office action was re-mailed September 24, 2007. The re-mailed non-final Office action set a new period of time for reply. Thus, in accordance

with 37 CFR 1.702(a)(2), the application is entitled to an adjustment of 166 days, as argued by applicants. The adjustment commenced April 12, 2007, the day after the date that is four months after the date that a reply was filed, and ended September 24, 2007, the date that the non-final Office action was re-mailed.

Applicants timely replied to the non-final Office action on December 20, 2007. Thus, the reduction of 195 days was accorded in error.

As uncontested, the adjustment is further reduction 70 days in accordance with 37 CFR 1.704(c)(8) in connection with the filing of a supplemental reply on February 28, 2008.

As further uncontested, the application is entitled to an additional adjustment of 23 days in connection with the mailing of the non-final Office action on May 13, 2008.

In view thereof, at the time of allowance, the application is entitled to an adjustment of 645 days (adjustments totaling 774 days less reductions totaling 129 days).

Receipt is hereby acknowledged of the required PTA application fee of $200.00.

Applicant is 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 Data Management 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: 12/18/2008

PALM INTRANET

Time: 09:05:02

PTA Calculations for Application: 10/335254			
Application Filing Date:	12/31/2002	PTO Delay (PTO):	608
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	265
Post-Issue Petitions:	0	Total PTA (days):	645
PTO Delay Adjustment:	302		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
78	12/18/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	302		
71	10/24/2008	MAIL NOTICE OF ALLOWANCE			
70	10/23/2008	ISSUE REVISION COMPLETED			
69	10/23/2008	DOCUMENT VERIFICATION			
68	10/23/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
67	10/23/2008	NOTICE OF ALLOWABILITY			
62	07/25/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
60	07/25/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	58
59	08/22/2008	DATE FORWARDED TO EXAMINER			
58	07/25/2008	RESPONSE AFTER NON-FINAL ACTION			
57	07/25/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
55	05/13/2008	MAIL NON-FINAL REJECTION	23		44
54	05/12/2008	NON-FINAL REJECTION			
49	03/03/2008	DATE FORWARDED TO EXAMINER			
48	02/28/2008	SUPPLEMENTAL RESPONSE		70	44
45	12/29/2007	DATE FORWARDED TO EXAMINER			
44	12/20/2007	RESPONSE AFTER NON-FINAL ACTION		195	36
43	09/24/2007	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
42	09/23/2007	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
41	09/23/2007	CORRESPONDENCE ADDRESS CHANGE			
40	09/24/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			

37	09/21/2007	MISCELLANEOUS INCOMING LETTER			
36	03/08/2007	MAIL NON-FINAL REJECTION			
35	03/05/2007	NON-FINAL REJECTION			
33	12/11/2006	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
32	12/26/2006	DATE FORWARDED TO EXAMINER			
31	12/11/2006	RESPONSE AFTER NON-FINAL ACTION			
30	09/13/2006	MAIL NON-FINAL REJECTION			
29	09/05/2006	NON-FINAL REJECTION			
28	07/25/2006	MAIL-PETITION DECISION - DISMISSED			
27	07/20/2006	CORRESPONDENCE ADDRESS CHANGE			
26	07/21/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
25	06/27/2006	DATE FORWARDED TO EXAMINER			
24	06/26/2006	RESPONSE AFTER NON-FINAL ACTION			
23	04/07/2006	PETITION ENTERED			
22	03/27/2006	MAIL NON-FINAL REJECTION			
21	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
20	03/20/2006	NON-FINAL REJECTION			
19	01/10/2006	DATE FORWARDED TO EXAMINER			
18	01/06/2006	RESPONSE AFTER NON-FINAL ACTION			
17	10/06/2005	MAIL NON-FINAL REJECTION	585		-1
16	10/03/2005	NON-FINAL REJECTION			
15	07/12/2005	CASE DOCKETED TO EXAMINER IN GAU			
14	06/21/2005	CASE DOCKETED TO EXAMINER IN GAU			
13	04/14/2003	PRELIMINARY AMENDMENT			
12	10/05/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	06/25/2003	CASE DOCKETED TO EXAMINER IN GAU			
10	06/19/2003	TRANSFER INQUIRY TO GAU			
9	05/01/2003	APPLICATION DISPATCHED FROM OIPE			
8	05/01/2003	APPLICATION IS NOW COMPLETE			
6	03/14/2003	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
5	03/14/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	12/31/2002	CLAIM PRELIMINARY AMENDMENT			
3	02/13/2003	NOTICE MAILED--APPLICATION INCOMPLETE--			

		FILING DATE ASSIGNED			
2	01/10/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/31/2002	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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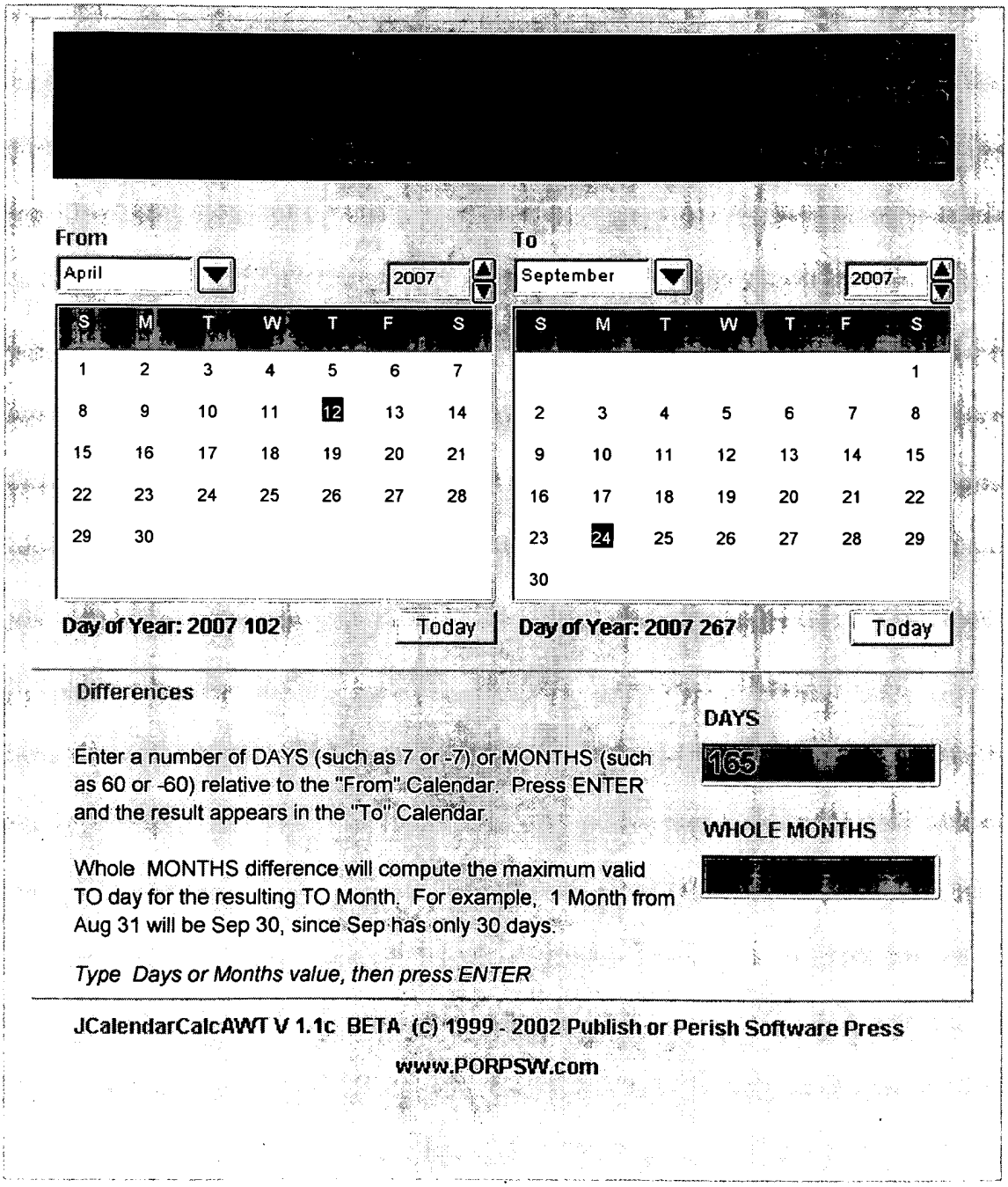


As time always moves forward, the Years, Months, Days breakdown is always computed from the lesser

Attorney's Docket No. 042933/302556

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:	Wong	Confirmation No.:	5417
Appl. No.:	10/335,254	Group Art Unit:	2618
Filed:	12-31-2002	Examiner:	John Lee
For:	ROCKER USER INTERFACE FOR HANDHELD DEVICES, AND METHOD FOR IMPLEMENTING SAME		

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

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED ON NOTICE OF ALLOWANCE (37 C.F.R. § 1.705(b) and (c)

1. This request for reconsideration of the patent term adjustment for the term indicated on the "Determination of Patent Term Adjustment Under 35 U.S.C. 154(b) and mailed with the **Notice of Allowance dated October 24, 2008, is being filed prior to the payment of the issue fee**.

2. The above-identified patent application (37 C.F.R. § 1.705(b)(2)(iii)) is not subject to a terminal disclaimer.

3. There were no circumstances during the prosecution of this application constituting a failure to engage in reasonable efforts to conclude processing or examination of this application as set forth in § 1.704 (37 C.F.R. § 1.705(b)(2)(iv)) other than the circumstances set forth herein.

APPLICANT'S STATEMENT REGARDING PATENT TERM ADJUSTMENT AS PRINTED ON THE DETERMINATION OF PATENT TERM ADJUSTMENT DATED OCTOBER 24, 2008

CoA

- On December 20, 2006, Applicant filed a Power of Attorney and Change of Address. (Exhibit A)

NFoA

- On March 8, 2007, The United States Patent and Trademark Office ("USPTO") mailed a Non-Final Office action to Scheef & Stone LLP who did not forward the document to our firm. (PAIR entry)
- On April 30, 2007, the March 8, 2007, Office Action was returned to the USPTO by Scheef & Stone LLP indicating it was not a Scheef & Stone case (PAIR entry)

Remailed

- On September 24, 2007, the Examiner entered a change of address to Alston & Bird LLP from the Revocation and New Power of Attorney that had been filed December 20, 2006, **and then restarted the mailing date of the Office Action from March 8, 2007, to September 24, 2007** (PAIR entry)

- **December 20, 2007**, Applicant timely filed a Reply to the September 24, 2007, Office Action (PAIR entry)

5. **Applicant therefore submits this Request For Reinstatement of 195 days of Applicant Delay Days and an addition of 166 days of USPTO PTA delay days calculated as follows:**

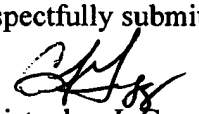
Reinstatement of 195 Applicant Days: For the time period from June 8, 2007 (three months date from the mailing of the USPTO Office Action of March 8, 2007, that was incorrectly mailed to the law firm of Scheef & Stone) to December 20, 2007 (the date Applicant filed a response to the Examiner restart date of September 24, 2007, of the Office Action. § 1.704(b)-Part C." (37 C.F.R. § 1.705(c)).

Addition of 166 USPTO Delay Days: The time period of four months from the December 11, 2006, Response to Non-Final Action entered which would be April 11, 2007, until the mailing date of the Examiner RESTART date of September 24, 2007, which Applicant calculates to be 166 days.
Therefore, Applicant submits that after entry of the these two calculations, the Applicant Delays days = 70
USPTO Delay days = 774
Total Patent Term Adjustment should be 704 days.

6. The fee set forth in § 1.18(e) ($200.00), required by 37 C.F.R. 1.705(b)(1), was authorized during e-filing.

☒ Charge any deficiencies or credit any overpayment to Deposit Account No. 16-0605.

Respectfully submitted,



Christopher J. Gegg
Registration No. 50,857

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Charlotte Office (704) 444-1000
Fax Charlotte Office (704) 444-1111

Attachment: Exhibit A (Alston & Bird's Revocation and New Power of Attorney filed December 20, 2006)

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NORTHRIDGE, CA 91325-1219

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MAR 2 0 2008

OFFICE OF PETITIONS

In re Application of :
Varaz Shahmirian et al :
Application No. 10/335,256 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No. PF01003 US :

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 application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 19, 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). One-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 May 20, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 3763 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

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HELLER EHRMAN WHITE & MCAULIFFE
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025

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AUG 16 2006

OFFICE OF PETITIONS

In re Application of
Dominique M. Freeman et al.
Application No. 10/335,257
Filed: December 31, 2002
Attorney Docket No.: 38187-2644

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed March 1, 2006, to change the order of the names of the inventors.

The petition is **GRANTED**.

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

1. Dominique M. Freeman
2. Dirk Boecker
3. Don Alden

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

Additionally, petitioner's deposit account has been charged in the amount of $400 not $130, as was indicated in the petition as effective December 8, 2004, the fee for a petition under 37 CFR 1.182 was set at $400.

This matter is being referred to Technology Center 3734 for further examination.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PAUL DAVIS
HELLER EHRMAN WHHITE & McAULIFFE LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025-3506

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OCT 0 2 2006
OFFICE OF PETITIONS

In re Application of	:	
Dominique M. Freeman et al	:	
Application No. 10/335,259	:	DECISION ON PETITION
Filed: December 31, 2002	:	
Attorney Docket No. 38187-2651	:	

This is a decision on the petition under 37 CFR 1.182, filed March 1, 2006, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

This application is being referred to Technology Center AU 3736 for appropriate action in the normal course of business on the reply received June 21, 2006.

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

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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ALEXANDRIA, VA 22313-1450
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Goodwin Procter LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park CA 94025-1105

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JUN 29 2009

OFFICE OF PETITIONS

In re Patent No. 7,481,776	:	
Freeman et al.	:	
Issue Date: January 27, 2009	:	DECISION ON REQUEST FOR
Application No. 10/335,259	:	RECONSIDERATION OF
Filed: December 31, 2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No. PEL-2651.US	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed March 5, 2009, requesting that the patent term adjustment determination for the above-identified patent be corrected from two hundred twenty-three (223) days to eight hundred seventy-one (871) days.

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

On January 27, 2009, the above-identified application matured into U.S. Patent No. 7,481,776 with a patent term adjustment of 223 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that a portion of the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR 1.703(b), 648 of 696 days, does not overlap with the period of adjustment due to examination delay, pursuant

to 37 CFR 1.702(a), of 774 days as these periods do not occur on the same days.

The period of adjustment under 37 CFR 1.702(b) ("Three Year Delay") is the number of days, if any, 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.[1]

---

[1] 37 CFR 1.703(b) provides that the period of adjustment of the term of a patent shall not include the period equal to the sum of the following periods:

(1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

(2)

(i) The number of days, if any, in the period beginning on the date an interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and

(ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension;

(3)

(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181;

(ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 41.39 of this title in the application under secrecy order and ending on the date the secrecy order was removed;

(iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order was removed; and

(iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) of this chapter and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151; and,

(4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

In this instance, the Three Year Delay period of 696 days is calculated based on the application having been filed under 35 U.S.C. 111(a) on December 31, 2002, and a request for continued examination ("RCE") having been filed in this application on November 27, 2007. The filing of a RCE cuts-off the applicant's ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment. 37 CFR 1.703(b)(1).

The 774 day period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a), is the sum of:

- a period of delay of 726 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to § 1.702(a)(1); and,

- a period of delay of 48 days for the failure by the Office to respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken, pursuant to § 1.702(a)(2).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, the period of Office delay reduced by the period of applicant delay. The period of reduction of 551 days for applicant delay is not in dispute.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Year Delay terminated by the filing of a RCE (696 days) and the period of Examination Delay (774 days) to the extent that these periods of delay are not overlapping.

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37*

> *CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of 37 CFR 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay

> due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[2]

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period from the filing of the application on December 31, 2002, to the date of the filing of the RCE on November 27, 2007. The period of delay of 696 days for the Office taking in excess of three years to issue the patent overlaps with the 774 days accorded pursuant to 37 CFR 1.702(a)(1) and (a)(2) during the pendency of the application prior to the filing of the RCE. The period of 774 days is considered the actual number of days that the issuance of the patent was delayed, considering the 696 days over three years to the filing of the RCE. As the 774 days had already been accorded, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, no adjustment to the patent term will be made.

The Office will charge the $200.00 fee set forth in 37 CFR 1.18(e) to the Deposit Account. No additional fees are required.

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[2] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Suite 300
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McLean, VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
Stefan Jenzowsky et al.	:	
Application No. 10/335,263	:	DECISION ON PETITION
Filed: January 2, 2003	:	TO WITHDRAW
Attorney Docket No. 449122050300	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 13, 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 August 3, 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.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Bell, Boyd & Lloyd, LLP**
P.O. Box 1135
Chicago, IL 60690

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/27/04

Paper No.: _____

TO SPE OF : ART UNIT 2800

SUBJECT : Request for Certificate of Correction on Patent No.: 6753525 B1

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

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

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch

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

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

Comments:

_____

_____

_____

_____

_____

_____ 2881

SPE **Art Unit**

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DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/20/2010

Applicant	: John R. Hind	: DECISION ON REQUEST FOR
Patent Number	: 7644312	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/335,276	: 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 **1929** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

SCOTT P. ZIMMERMAN, PLLC
PO BOX 3822
CARY NC 27519

In re Application of :
Turcan, et al. :
Application No. 10/335,280 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No. BS02526 :
For: COMPUTER TELEPHONY
INTEGRATION (CTI) COMPLETE
HOSPITALITY CONTACT CENTER

This is a decision on the petition under 37 CFR 1.181, to withdraw the holding of abandonment of the above-identified application and the petition to revive under 37 CFR 1.137(b) to revive the application. Both petitions were filed on April 20, 2007 (certificate of mailing date April 8, 2007). In addition, this decision will address the petition to revive under 37 CFR 1.137(b), filed April 30, 2007.

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

The petition to revive under 37 CFR 1.137(b), filed April 20, 2007 (certificate of mailing date April 8, 2007) is **DISMISSED AS MOOT**.

The petition to revive under 37 CFR 1.137(b), filed April 30, 2007 is **DISMISSED AS MOOT**.

This application was held abandoned due to applicants' alleged failure to reply within three months to the final Office action, mailed September 8, 2006. The Office contended that this application became abandoned on December 9, 2006.

Petitioners assert that a reply was timely mailed on certificate of mailing date October 5, 2006. In support of this assertion, petitioners have provided a copy of applicants' RCE and Amendment and Response to September 8, 2006 Office Action that contain a proper certificate of mailing bearing an October 5, 2006 date of deposit.

Under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The RCE and Amendment and Response to September 8, 2006 Office Action bear a proper certificate of mailing, dated October 5, 2006, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above.

In addition, the person signing the certificate, Attorney Bambi Walters, had a reasonable basis to expect that the correspondence would be mailed on or before the date indicated. Ms. Walters has provided a statement that it was indeed mailed on October 5, 2006.

Therefore, the petition under 37 CFR 1.181 is **GRANTED** and the holding of abandonment is withdrawn.

The petition to revive under 37 CFR 1.137(b), filed April 20, 2007 (certificate of mailing date April 8, 2007) is **DISMISSED AS MOOT** and the petition to revive under 37 CFR 1.137(b), filed April 30, 2007 is **DISMISSED AS MOOT**.

Regarding fees, the two petition to revive fees will be refunded to the two credit cards that were charged. Office financial records will be altered to show that the RCE fee was submitted on mailroom date October 5, 2006, thus making the RCE timely filed.

While Bambi Walters is no longer the attorney of record, a courtesy copy of this decision will be mailed to her, as she authored two of the petitions addressed in this decision and will receive a credit card refund of one of the two petition fees under 37 CFR 1.137(b).

After the mailing of this decision, the application file will be returned to Technology Center A.U. 2614 for consideration of the RCE and amendment filed on certificate of mailing date October 5, 2006 and resubmitted on April 20, 2007 (certificate of mailing date April 8, 2007) and April 30, 2007.

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

Shirene Willis Brantley

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

cc: BAMBI F. WALTERS
P.O. BOX 5743
WILLIAMSBURG VA 23188

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OFFICE OF PETITIONS

In re Application of :
Gopi M. Venkatesh :
Application No. 10/335,295 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No. 451194-087 :

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 16, 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). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is November 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 $1620; and (3) a proper statement of unintentional delay.

The petition is **GRANTED**.

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

This application is being referred to Technology Center AU 1616 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

Cc: LEIGH M. WARREN
COOLEY GODWARD KRONISH, LLP
PATENT GROUP
777 6TH STREET NW
WASHINGTON, DC 20001

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. ____

MELANIE BROWN, ESQ.
ENGELHARD CORPORATION
101 WOOD AVENUE
ISELIN, NJ 08830

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APR 2 7 2004

OFFICE OF PETITIONS

In re Application of
Frank Bagala Sr.
Application No. 10/335,303
Filed: December 31, 2002
Attorney Docket No. E0012.0897/P0897

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed April 26, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 1755 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HARRIS ZIMMERMAN
1330 BROADWAY
SUITE 710
OAKLAND CA 94612

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AUG 0 8 2005

OFFICE OF PETITIONS

In re Application of		
Robert Frazier	:	
Application No. 10/335,304	:	DECISION ON
Filed: December 30, 2002	:	PETITION
Attorney Docket No. 4285	:	

This is in response to the petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed June 24, 2005.

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

The above-identified application became abandoned for failure to timely pay the issue fee as required by the Notice of Allowance mailed on April 15, 2004. This notice set a statutory period for reply of three months. No issue fee having been received, the above-identified application became abandoned on July 16, 2004. A Notice of Abandonment was mailed on August 16, 2004.

With the instant petition, petitioner paid the petition fee together with the issue fee[1], and made the proper statement of unintentional delay.

---

[1] Petitioner only submitted $665 for the issue fee. Effective December 8, 2004, the issue fee was increased to $700. Accordingly, the balance of $35 was charged to Deposit Account No. 26-0265, as authorized.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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.
10/335,320	12/31/2002	Chandrasekharan Kothandaraman	2002-P-16862 US	7227

25962 7590 02/02/2005

SLATER & MATSIL, L.L.P.
17950 PRESTON RD, SUITE 1000
DALLAS, TX 75252-5793

EXAMINER	
HUYNH, ANDY	

ART UNIT	PAPER NUMBER
2818	

DATE MAILED: 02/02/2005

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

February 1, 2005

SLATER & MATSIL, L.L.P.
17950 Preston Road
Suite 1000
Dallas, TX 75252-5793

In Re Application of
KOTHANDARAMAN :
Application No. 10/335,320 :
Filed: December 31, 2002 :
Title: PROGRAMMABLE FUSE DEVICE

NOTICE OF WITHDRAWAL
FROM ISSUE

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue.

The application is being withdrawn to permit reopening of prosecution. The examiner will communicate the reasons to you.

If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, the applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

Telephone inquiries should be directed to David Nelms at (571) 272-1787.

The application is being forwarded to the examiner for prompt appropriate action.

James L. Dwyer
Director, Technology Center 2800
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

CHAPIN & HUANG
WESTBOROUGH OFFICE PARK
1700 WEST PARK DRIVE
SUITE 120
WESTBOROUGH, MA 01581

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AUG 26 2003

OFFICE OF PETITIONS

In re Application of :
Serge G. Marokhovsky et al :
Application No. 10/335,329 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No. EMC02-40(02177) :

This is in response to the petition, filed July 29, 2003, which is being treated as a petition under 37 CFR 1.47.

The petition is dismissed.

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

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

As to item (1), petitioner has failed to adequately show or provide proof that nonsigning inventor Anthony Ward refuses to join in the application after having been presented with the application papers (specification, claims, and drawings). There is no indication in the present case whether joint inventor Mr. Ward was presented with a copy of the complete application

papers. If joint inventor Mr. Ward was not presented with a copy of the application papers, then Mr. Ward could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration which he was given. Did joint inventor Mr. Ward receive the application papers? See MPEP 409.03(d). Unless petitioner can show that a copy of the application papers was presented to joint inventor Mr. Ward, then petitioner will have to mail a copy of the complete application papers to Mr. Ward's last known address, return receipt requested. A cover letter of instructions should accompany the mailing of the application papers setting a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events and should include documentary evidence, such as certified mail return receipt, cover letter of instructions, telegrams, E-mail, etc., to support a showing that joint inventor Mr. Ward has refused to sign the declaration after having been presented with the application papers. See MPEP 409.03(d).

Where there is an express or oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration by the party to whom the refusal was made. Where there is a written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the rule 47 applicant that an omitted inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

Whenever an omitted inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

As to item (2), petitioner has not submitted a declaration in compliance with 37 CFR 1.63 and 1.64. The statute at 35 U.S.C. § 115 requires that the declaration shall state the country of citizenship of each inventor. The declaration fails to set forth inventor Mr. Ward's citizenship. Accordingly, a declaration in compliance with 37 CFR 1.63 and 1.64 and signed by all the other joint inventors on behalf of themselves and on behalf of nonsigning joint inventor Mr. Ward and leaving the signature

block for inventor Mr. Ward blank is REQUIRED. See MPEP 409.03(a), 602, and 605.01. See also 37 CFR 1.63(a)(3).

As to item (4), a statement of the inventor's last known address is missing and is required.

After this decision is mailed, petitioner's deposit account No. 50-0901, will be charged the required $130 petition fee.

In order to expedite consideration of the petition under 37 CFR 1.47(a), petitioner may wish to consider submitting the renewed petition by facsimile transmission to the telephone number indicated below and to the attention of Wan Laymon.

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 9

CHAPIN & HUANG
WESTBOROUGH OFFICE PARK
1700 WEST PARK DRIVE
SUITE 120
WESTBOROUGH, MA 01581

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NOV 12 2003

OFFICE OF PETITIONS

In re Application of
Serge G. Marokhovsky et al
Application No. 10/335,329
Filed: December 31, 2002
For: SYSTEM AND METHOD FOR GATHERING AND ANALYZING DATABASE PERFORMANCE STATISTICS

: DECISION GRANTING STATUS
: UNDER 37 CFR 1.47(A)

This is a decision on the petitioner filed October 22, 2003, requesting reconsideration of a decision mailed August 26, 2003, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The petition states that the non-signing inventor's first name should be spelled as "Tony." The proper relief for correcting the spelling in the applicant's name is by way of petition under 37 CFR 1.182. See MPEP 605.04(b).

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

This application is being forwarded to Technology Center AU 2857 for examination in due course.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

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

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MAY 27 2003

OFFICE OF PETITIONS

In re Application of :
Penkovski et al. :
Application No. 10/335,332 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No. 42P11629 :

This decision concerns the April 28, 2003 "Petition Pursuant to 37 CFR 1.47a)".[1]

The petition is **DISMISSED.**

Two inventors are named in this application. The declaration filed with the application was only signed by 1 inventor. A Notice to File Missing Parts of Nonprovisional Application was mailed on February 20, 2003, giving Applicants an extendable 2-month period to submit a properly signed oath/declaration. The instant petition then followed, stating that the non-signing inventor Hsien-Cheng Hsieh ("Hsieh") is deceased and his legal representative is nonresponsive; and requesting that Intel Corporation ("Intel"), Hsieh's (former) employer,[2] be allowed to file this application on behalf of, and as agent for, Hsieh.

First of all, if both inventors either cannot be found/reached after diligent effort, or, refuse to sign the application declaration, the assignee of the entire interest in this application may petition and request to make the application on behalf of, and as agent for, the inventors. Here, 1 inventor signed the declaration. Therefore, under 37 CFR 1.47(a), this inventor rather than Intel[3] may request to file the application on behalf of Hsieh, upon showing that Hsieh's legal representative cannot be located/reached after diligent effort, or refuse to sign the declaration.

Even if the petition properly stated the request, the available inventor may file this application on behalf of himself as well as Hsieh only if a *bona fide* attempt has been made to present to Hsieh's known legal representative, for review and signature, a copy of the **entire application**

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[1] Certificate of Mailing date 4/21/03, a Monday.

[2] It is unclear during what period Hsieh worked for Intel; when the claimed invention was made (conceived/reduced to practice) by Hsieh et al. in relation to that period; or when Hsieh passed away.

[3] Assuming Intel is the assignee of the entire interest in the claimed invention.

(specification including claims; drawings);[4] and the latter refuses to sign the declaration. To show that Hsieh's legal representative has refused 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 Hsieh's legal representative at his/her last known address,[5] and his/her subsequent refusal.[6]

The instant petition with the accompanying exhibits indicate that Intel's outside counsel mailed Hsieh's widow 2 letters[7] inquiring who Hsieh's legal representative was, and whether Hsieh's widow would sign the declaration if she was the executor of his estate. However, clearly, **only the title page of the application was sent to Hsieh's widow** with the letters.[8]

In view of the above, the petition has not shown that a *bona fide* attempt has been made to present to Hsieh's known legal representative a copy of the entire application (specification including claims; drawings), as required by 37 CFR 1.47(a). Consequently, even if the petition properly stated the request, the available inventor, based on the instant petition, is not allowed to step in the shoes of Hsieh's legal representative and sign the declaration on behalf of Hsieh. The petition is thus dismissed.

Options

To prevent abandonment of this application, **either** of the following must be filed within **TWO MONTHS** of the mailing date of this decision:[9]

(1) an oath/declaration, properly executed by Hsieh's known legal representative, to supplement the originally submitted declaration;

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[4] 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.).

[5] 37 CFR 1.47(a); also MPEP section 409.03(e) (Rev. 1, Feb. 2003).

[6] See MPEP section 409.03(d) (Rev. 1, Feb. 2003).

[7] Only copy of the 10/16/02 letter is supplied with the petition.

[8] 10/16/02 letter from counsel to Hsieh's widow, 2nd paragraph, lines 4-5.

[9] Unless a proper extension of time under 37 CFR 1.136(a) is obtained. See 37 CFR 1.53(f).

OR, (2) a renewed petition under 37 CFR 1.47(a) (no fee)[10] that includes appropriate statement(s) of facts, stating that the entire application papers (specification including claims; drawings) were presented to Hsieh's known legal representative at his/her last known address; and of the facts relied upon to conclude that this known legal representative refuses to sign the declaration.[11]

The renewed §1.47(a) petition should be addressed as follows:

by mail/by hand: Commissioner for Patents, USPTO
Attn: Office of Petitions
Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

by fax: (703) 308-6916
Attn: Office of Petitions

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

RC Tang
Petitions Attorney
Office of Petitions

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[10] The instant petition encloses the $130 petition fee, and the $130 surcharge for not having submitted an acceptable oath/declaration upon filing of the application.

[11] The statement(s) of facts must be made and signed by those who presented the application papers to Hsieh's known legal representative/concluded that Hsieh's known legal representative refused to sign the declaration/to whom this legal representative's refusal to sign was made. See MPEP section 409.03(d) (Rev. 1, Feb. 2003). **Statements based on hearsay will not be considered.**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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NOV 1 0 2003

OFFICE OF PETITIONS

In re Application of
Penkovski et al.
Application No. 10/335,332
Filed: December 31, 2002
Attorney Docket No. 42P11629

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

This decision concerns the October 31, 2003 second renewed petition under 37 CFR 1.47(a).

The petition is **GRANTED.**

The original petition under 37 CFR 1.47(a), filed on April 28, 2003, indicated that the non-signing inventor, Hsien-Cheng Hsieh ("Hsieh"), was deceased. The petition also stated that counsel for Assignee had mailed a copy of the application to Hsieh's widow, but did not receive any reply from her. That petition was dismissed on May 27, 2003 for lacking sufficient showing that a diligent effort had been made to secure the signature of Hsieh's widow on the application declaration, assuming that she is Hsieh's legal representative.

The July 31, 2003 renewed §1.47(a) petition enclosed a declaration signed by Hsieh's widow, and was properly treated as a request under 37 CFR 1.42 that Hsieh's widow be allowed to file this application on behalf of Hsieh, as his legal representative. That renewed petition was dismissed on August 25, 2003, in that, the declaration did not comply with 37 CFR 1.63(a)(3) and/or 1.64(b).

The instant renewed petition asserts that counsel has been unable to reach Hsieh's widow at her last known address to re-execute the declaration, and requests that Hsieh's joint inventor be allowed to file this application on behalf of himself as well as Hsieh.

Upon reviewing the petition and the accompaniments, the Office concludes that a reasonably diligent effort has been made, in vain, to reach Hsieh's widow to sign the declaration as Hsieh's legal representative. Accordingly, the "Declaration and Power of Attorney for Patent Application" filed with the application on December 31, 2002 is hereby accepted.[1] The renewed §1.47(a) petition is thus granted.

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[1] The Office stated in the 8/25/03 decision that the 12/31/02 declaration contained un-initialed alterations by Hsieh's joint inventor. Upon reconsideration, the Office agrees with counsel that the alterations were indeed initialed.

The application is now complete.

As provided in 37 CFR 1.47(c), the Office will forward notice of the filing of this application to Hsieh's widow at her last known address provided in the petition:

Candice Huang
2075 Yellow Aster Court
Rancho Cordova, CA 95670

Notice of the filing of this application will also be published in the *Official Gazette*.

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

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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EMC CORPORATION
OFFICE OF THE GENERAL COUNSEL
176 SOUTH STREET
HOPKINTON, MA 01748

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MAY 15 2007

OFFICE OF PETITIONS

In re Application of :
Christopher M. Barrett et al :
Application No. 10/335,349 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No. EMC-02-187 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed June 1, 2006, which set a shortened statutory period for reply of three (3) months. Two-month extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 2, 2006.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on January 4, 2007.

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

This matter is being referred to Technology Center AU 2191 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUN 22 2010

OFFICE OF PETITIONS

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

In re Patent No. 7,478,061	:
Spreng et al.	: DECISION ON REQUEST FOR
Issue Date: January 13, 2009	: RECONSIDERATION OF
Application No. 10/335,362	: PATENT TERM ADJUSTMENT
Filed: December 31, 2002	: AND NOTICE OF INTENT
Attorney Docket No. 12587-090001/01781-00/US	: TO ISSUE CERTIFICATE OF CORRECTION
Title: Automated Audit Process	:

This is a decision on the petition filed on March 13, 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 an additional one thousand four hundred sixty-six (1466) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED TO THE EXTENT INDICATED HEREIN.**

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 822 days.

The adjustment of 4 days is being removed as a compliant appeal brief was not filed until June 26, 2008. The period of adjustment is equal to the number of days, if any, in the period beginning on the day after the date that is four months after the date an appeal brief in compliance with § 41.37 of this title was filed and ending on the date of mailing of any of an examiner's answer under § 41.39 of this title, an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first. Thus, the mailing of the Notice of Allowance on September 25, 2008 occurred within four months.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 1109 days (January 1, 2006 to January 13, 2009 the day of issuance of the patent.

The time taken up by the notice of appeal is excluded from the period of B-delay pursuant to 37 CFR 1.703(b)(4) in connection with the first Notice of Appeal filed December 18, 2007. The reduction of 59 days commenced December 18, 2007; the date that the Notice of Appeal was filed, and ended February 14, 2008, the day the final Office action was mailed. See, 37 CFR 1.703(b)(4). A second Notice of Appeal was filed February 27, 2008, which resulted in an exclusion of 212-days. The reduction commenced February 27, 2008; the date the Notice of Appeal was filed, and ended September 25, 2008 the date the Notice of Allowance was mailed. A total reduction of 271 days pursuant to 37 CFR 1.703(b)(4) in connection with the Notices of Appeal filed December 18, 2007 and February 27, 2008.

In view thereof, the patent is entitled to an overall adjustment of 1573 days.

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand five hundred seventy-three **(1,573)** 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.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,478061 B1

DATED : **January 13, 2009** **DRAFT**

INVENTOR(S) : Spreng 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 1022 days

Delete the phrase "by 1022 days" and insert – by 1573 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Marina Portnova
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles CA 90025-1026

COPY MAILED

SEP 0 7 2006

OFFICE OF PETITIONS

In re Application of :

Eugene Lapidous :
Application No. 10/335,367 : DECISION ON PETITION
Filed: December 30, 2002 : TO WITHDRAW
Attorney Docket No. 5383.P005 : 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 13, 2005

The request is **NOT APPROVED**.

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

The request cannot be approved because 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 Charles Smoot at 571-272- 3299.

David Bucci
Petitions Examiner
Office of Petitions

cc: Eugene Lapidous
ViewSpace Technologies, Inc.
P.O. Box 2008
Saratoga, CA 95070

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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MARINA PORTNOVA
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES CA 90025-1026

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MAY 31 2007

OFFICE OF PETITIONS

In re Application of	:	
LAPIDOUS, Eugene	:	
Application No. 10/335,367	:	DECISION ON PETITION
Filed: December 30, 2002	:	TO WITHDRAW
Attorney Docket No. **5383.P005**	:	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 25, 2006 and February 23, 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 Marina Portnova on behalf of all attorneys of record who are associated with customer No. 08791. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Eugene Lapidous at the address indicated below.

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.

Michelle R. Eason for
Michelle R. Eason
Petitions Examiner
Office of Petitions

cc: **EUGENE LAPIDOUS**
VIEWSPACE TECHNOLOGIES, INC.
P.O. BOX 2008
SARATOGA, CA 95070

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
10/335,367	12/30/2002	Eugene Lapidous	5383.P005

CONFIRMATION NO. 8177

OC000000024081287

Marina Portnova
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

Date Mailed: 05/25/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/23/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Michelle R. Eason

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

FORMER ATTORNEY/AGENT COPY

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Alexandria, VA 22313-1450
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NOV - 1 2004

Paper No. 11

In re Application of :
Overton L. Parish *et al* :
Application No. 10/335,373 : DECISION ON PETITION
Filed: December 31, 2002 :
Attorney Docket No. 27889-00068USP1 :

This is a decision on the petition filed on September 27, 2004, by which petitioners request withdrawal of the holding that this application stands abandoned for failure to file a timely and proper reply to the Office action dated January 9, 2004. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that this application is not abandoned because petitioners did in fact file a timely and proper reply to the Office letter in question. Petitioners support this allegation by submitting a copy of the reply, and a copy of a post card receipt for the filing of the reply, showing that the reply was in fact received in the Office on April 12, 2004. The papers comprising the reply have affixed thereto a 37 CFR 1.8(a) certificate of transmission dated April 12, 2004, a date within the period for filing a reply to Office letter in question. Therefore, it is clear that this application is not abandoned. See 37 CFR 1.8(b).

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for entry of the papers that are attached to the petition. The date to which the papers are entitled is April 12, 2004, with a certificate of mailing date of April 8, 2004. Thereafter, the application will be forwarded to the examiner for immediate consideration and appropriate action.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Stanley R. Moore
Jenkens & Gilchrist
A Professional Corporation
1445 Ross Avenue
Suite 3200
Dallas, TX 75202-2799

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P. O. BOX 2938
MINNEAPOLIS, MN 55402

COPY MAILED

OCT 30 2007

OFFICE OF PETITIONS

In re Application of	:	
Scott Thomas Mazar et al	:	
Application No. 10/335,396	:	DECISION GRANTING PETITION
Filed: January 3, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 279.B11US1	:	

This is a decision on the petition, filed October 29, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 28, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2612 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\fhicks\My Documents\470\Oct11\335396.wpd

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

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TRANSMETA C/O MURABITO, HAO & BARNES LLP
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE CA 95113

COPY MAILED

SEP 17 2008

In re Application of :
Brian O'Clair et al. : DECISION ON PETITION
Application No. 10/335,405 :
Filed: December 30, 2002 :
Attorney Docket No.: TRAN-181 :

This is a decision on the petition under 37 CFR 1.137(a), filed on August 25, 2008, to revive the above-identified application. This is also a decision on the petition filed September 2, 2008 to withdraw consideration of the previously filed petition and under 37 CFR 1.137(b) to revive the above-identified application.

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

The application became abandoned on July 9, 2008, for failure to timely submit the issue fee as required by the Notice of Allowance and Issue Fee Due mailed April 8, 2008, which set a three (3) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed August 5, 2008.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;

(2) the petition fee as set forth in § 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and

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

SHOWING OF UNAVOIDABLE DELAY

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have

adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

The petition filed August 25, 2008 under 37 CFR 1.137(a), has been filed without the required petition fee and the required showing in compliance with items (2) and (3) and therefore is dismissed.

Alternatively, since petitioner argues unintentional delay, requests that consideration of the petition filed August 25, 2008 under 37 CFR 1.137(a) be withdrawn and since all other requirements under 37 CFR 1.137(b) have been met, this matter is being forwarded to the Publishing Division to be processed into a Patent.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

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Paper No. 8

Brad I Golstein
WorkTools, Inc.
20755 Plummer Street
Chatsworth, CA 91311

COPY MAILED

OCT 29 2004

OFFICE OF PETITIONS

In re Application of :
Joes S. Marks . :
Application No. 10/335,430 : ON PETITION
Filed: January 3, 2003 :
Attorney Docket No. WA-1 :

This is a decision on the petition, filed August 9, 2004, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed October 31, 2003, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. A Notice of Abandonment was mailed on May 18, 2004. On August 9, 2004, an amendment and the present petition were filed.

The petition is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 3632 for consideration of the amendment filed August 9, 2004.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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BRAD I GOLSTEIN
WORKTOOLS, INC.
20755 PLUMMER STREET
CHATSWORTH, CA 91311

COPY MAILED

JAN 10 2007

OFFICE OF PETITIONS

In re Application of :
Joel Marks :
Application No. 10/335,430 : ON PETITION
Filed: January 3, 2003 :
Attorney Docket No. WA-1 :

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

The petition is **DISMISSED**.

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

It is noted that an amendment was included with the petition filed on May 6, 2005. However, the amendment is considered non-responsive, since it did not place the application in condition for allowance. See the attached Advisory Action. The proposed reply required for consideration of a petition to revive this application must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, or the filing of a submission under 37 CFR 114 (RCE) or a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2).

This decision is made without prejudice to reconsideration. However, any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request

---

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)" and the required reply as noted above.

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

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/335,430	**Applicant(s)** MARKS, JOEL	
	Examiner Kimberly T. Wood	**Art Unit** 3632	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 July 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 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): 35 usc 103 REJECTED BY Takada et al..
6. ☒ Newly proposed or amended claim(s) *1-5,8,9,11 and 12* 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: *1-5,8 and 9*.
   Claim(s) objected to: *12*.
   Claim(s) rejected: *11*.
   Claim(s) withdrawn from consideration: *6 and 7*.

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: _____.

Kimberly T. Wood
Primary Examiner
Art Unit: 3632

Notice of Non-Compliant Amendment (37 CFR 1.121) for Applications Under Accelerated Examination	**Application No.** 10/335,430	**Applicant(s)** MARKS, JOEL	
	Examiner Kimberly T. Wood	**Art Unit** 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Since this application has been granted special status under the accelerated examination program, NO extensions of time under 37 CFR 1.136(a) will be permitted.

The amendment document filed on *17 July 2006* is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other _____.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
  - ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: *See Continuation Sheet*.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

  _____.

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:
Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance, or a drawing submission (only). If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.

Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

NO Extensions of time under 37 CFR 1.136(a) will be permitted.

Failure to timely respond to this notice will result in:
Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or
Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable _____ Telephone No. _____

Continuation of 4(e) Other: the amendment is not in compliance with the revised amendment practice 37 CFR 1.121 effective July 30, 200 because the withdrawn claims do not include a clean version of the text. The claim 8 should be indicated as previously prevented and the underlined text should not be underlined since it was presented in the previous version of the claim in amendment filed on August 9, 2004. Claim 12 does not include all the changes from the previous version of the claim using underlining or strikethrough or double bracketing. (1) The current status of all of the claims in the application must be given in a parenthetical expression following the claim number using only one of the following seven status identifier: (original), (currently amended), (canceled), (withdrawn), (new), (previously presented) and (not entered). Canceled and not entered claims must be indicated by only the claim number and status, without presenting the text of the claims. (2) The text of all claims being currently amended must be presented in the claim listing with markings to indicate the changes that have been made relative to the immediate prior version. The changes in any amended claim must be shown by underlining (for added matter) or strikethrough (for deleted matter) with 2 exceptions: (1) for deletion of five characters or fewer, double brackets may be used (e.g., [[error]]); and (2) if strikethrough cannot be easily perceived (e.g., deletion of number "4" or certain punctuation marks), double brackets must be used (e.g., [[4]]). Only claims of the status "currently amended," and "withdrawn" that are being amended, may include markings. (3) The text of pending claims not being currently amended, including withdrawn claims, must be presented in the claim listing in clean version, i.e., without any markings. Any claim text presented in clean version will constitute an assertion that it has not been changed relative to the immediate prior version except to omit markings that may have been present in the immediate prior version of the claims. (4) A claim being canceled must be listed in the claim listing with the status identifier "canceled"; the text of the claim must not be presented. Providing an instruction to cancel is optional. (5) Any claims added by amendment must be presented in the claim listing with the status identifier "(new)"; the text of the claim must not be underlined. (6) All of the claims in the claim listing must be presented in ascending numerical order. Consecutive canceled, or not entered, claims may be aggregated into one statement (e.g., Claims 1-5 (canceled)).

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BRAD I GOLSTEIN
WORKTOOLS, INC.
20755 PLUMMER STREET
CHATSWORTH, CA 91311

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MAR 3 1 2008

OFFICE OF PETITIONS

In re Application of :
Joel Marks :
Application No. 10/335,430 : ON PETITION
Filed: January 3, 2003 :
Attorney Docket No. WA-1 :

This is a decision in response to the renewed petition, filed March 12, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

Accordingly, the petition is **GRANTED**.

This application is being referred to Technology Center AU 3632 for appropriate action by the Examiner in the normal course of business on the reply received March 12, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 02, 2007

TO SPE OF : ART UNIT 2191 10/335452

SUBJECT : Request for Certificate of Correction on Patent No.: 7131116 B1

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

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

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.

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

Comments:

_____

_____

_____

_____

_____

_____ 2191
SPE **Art Unit**

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

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,131,116 B1
APPLICATION NO. : 10/335,452
ISSUE DATE : October 31, 2006
INVENTOR(S) : Jai Krishna

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 DRAWINGS

Please remove "Sheet 2 of 5" and "Sheet 3 of 5" and replace with the attached Replacement Drawings --Sheet 2 of 5-- and --Sheet 3 of 5--.

COLUMN 11

Claim 1: Line 46, delete "extensible" and insert --eXtensible--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Hickman Palermo Truong & Becker LLP
2055 Gateway Place, Suite 550
San Jose, CA 95110

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

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

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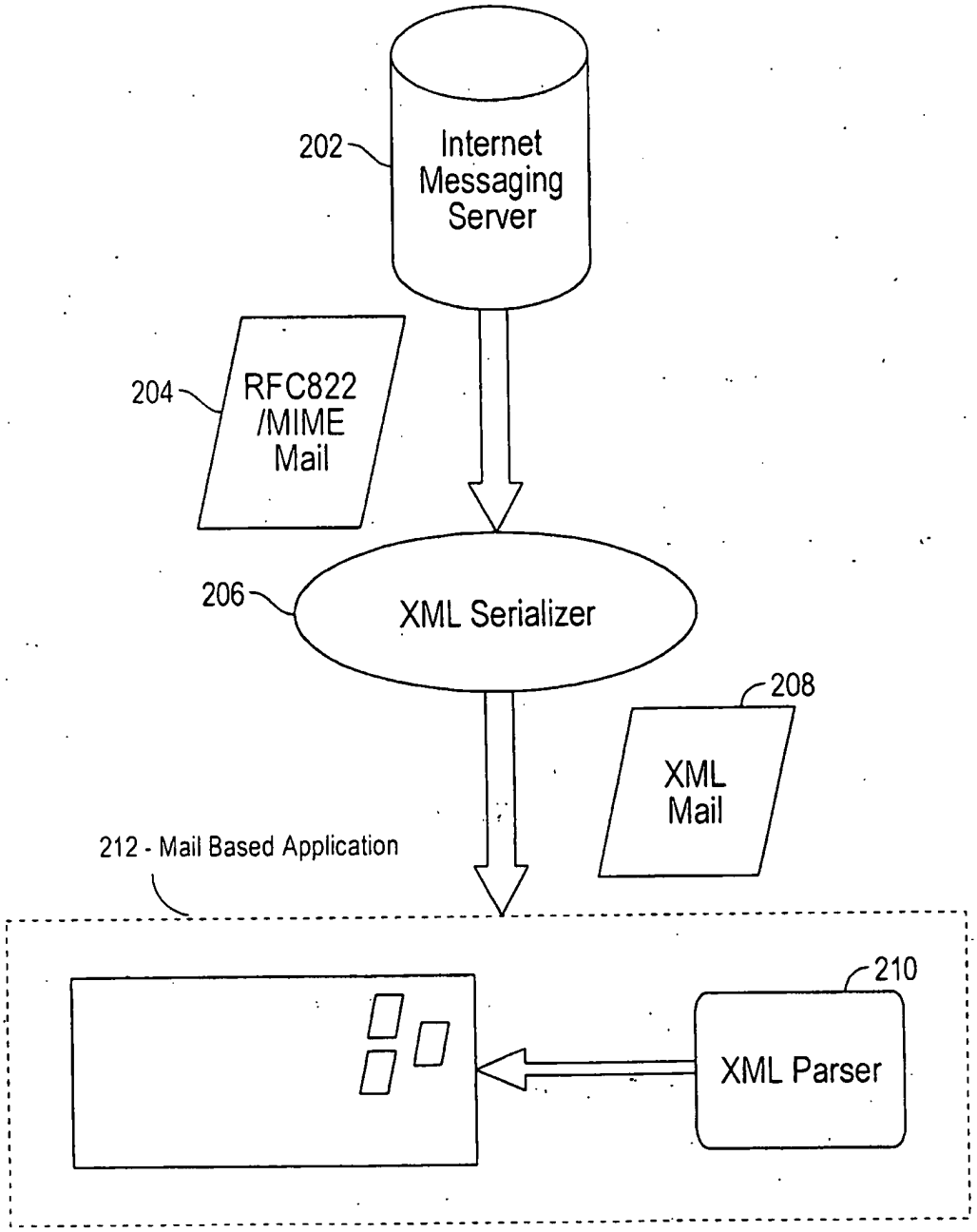

FIG. 2

DEC 22 2006

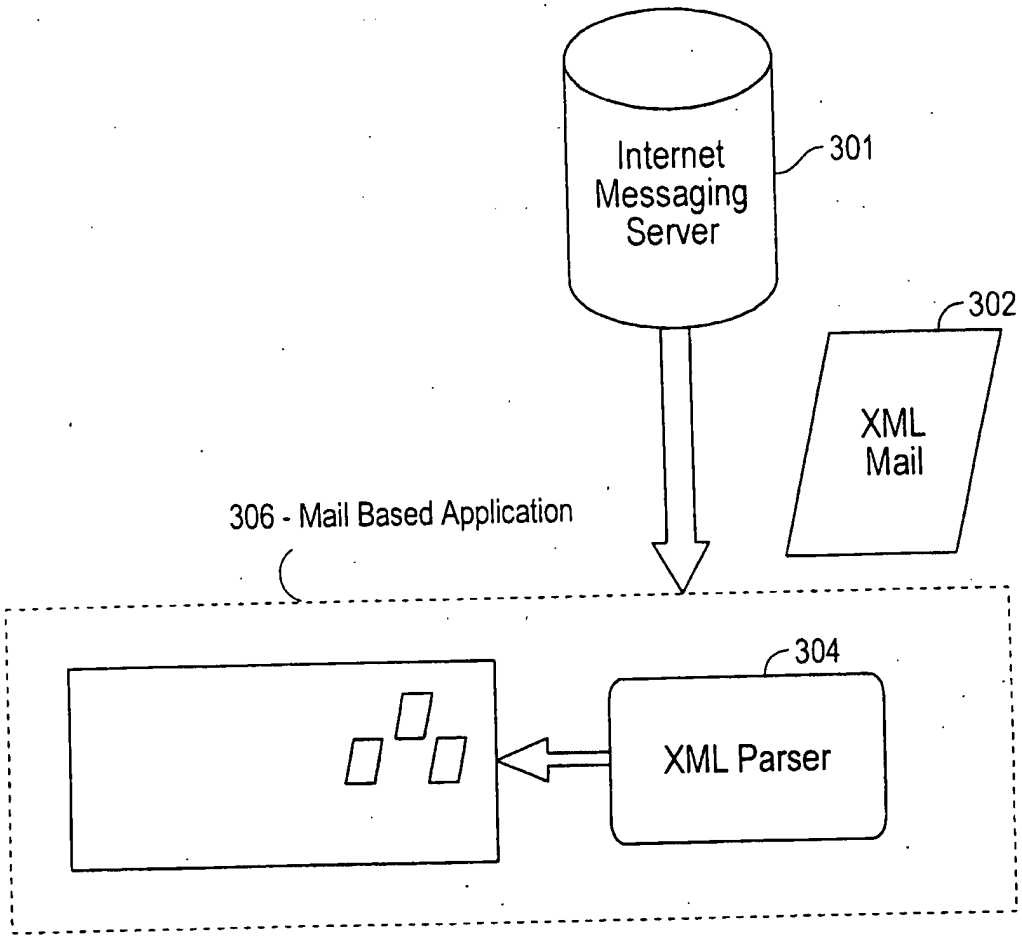

FIG. 3

DEC 22 2006

TRANSMISSION VERIFICATION REPORT

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TIME : 06/08/2005 11:22

DATE,TIME	06/08 11:20
FAX NO./NAME	15712733682
DURATION	00:01:43
PAGE(S)	08
RESULT	OK
MODE	STANDARD ECM

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MAY 18 2007

OFFICE OF PETITIONS

In re Application of :
Diane Brown Turcan et al :
Application No. 10/335,453 : DECISION ON PETITION
Filed: December 31, 2002 :
Attorney Docket No. BS020530 :

CORRECTED DECISION

This is a decision on the petition, filed April 20, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the non-final Office action mailed April 5, 2006, which set a three (3) month shortened statutory period for reply.

Petitioner asserts that the Applicants did timely file a proper reply to the April 5, 2006 Office action. However, Office records do not show any evidence that the reply was timely filed. Therefore, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1500 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

The decision mailed May 18, 2007 is hereby vacated as of the mail date of this decision.

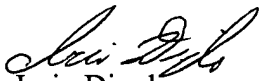
Further correspondence with respect to this matter should be addressed as follows:

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

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

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

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



Irvin Dingle
Petition Examiner
Office of Petitions

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MAY 18 2007

OFFICE OF PETITIONS

In re Application of :
Diane Brown Turcan et al :
Application No. 10/335,453 : DECISION ON PETITION
Filed: December 31, 2002 :
Attorney Docket No. BS020530 :

This is a decision on the petition, filed April 20, 2006, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the non-final Office action mailed April 5, 2006, which set a three (3) month shortened statutory period for reply.

Petitioner asserts that the Applicants did timely file a proper reply to the April 5, 2006 Office action. However, Office records do not show any evidence that the reply was timely filed. Therefore, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1500 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

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Alexandria, VA 22314

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

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

Irvin Dingle
Petition Examiner
Office of Petitions

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MAY 23 2007

OFFICE OF PETITIONS

In re Application of :
Diane Brown Turcan et al :
Application No. 10/335,453 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No. BS020530 :

This is a decision on the petition filed under 37 CFR 1.137(b), filed April 28, 2007 and supplemented April 30, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 5, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 6, 2006.

The $1500 submitted on April 20, 2007 is being applied toward the petition fee. The $1500 submitted on April 30, 2007 is being credit to petitioner's credit card.

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

This matter is being referred to Technology Center AU 2614 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Moriarty and McNett LLP
Bank One Center/Tower
111 Monument Circle, Suite 3700
Indianapolis IN 46204-5137

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FEB 24 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of : **DECISION ON PETITION**
Todd C. Bracken et al. : **TO MAKE SPECIAL**
Application No. 10/335,467 : **(INFRINGEMENT)**
Filed: December 31, 2002 :
For: SYSTEM AND METHOD FOR IDENTIFICATION AND NOTIFICATION OF ELEVATED OVER-THE-COUNTER MEDICATION SALES WITH RESPONSE COORDINATION

This is a decision on the petition under 37 C.F.R § 1.102(d) filed January 23, 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 January 23, 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 May 8, 2003.

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

SNM/mjz: 2/19/04

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6060 CENTER DRIVE, 10TH FLOOR
LOS ANGELES, CA 90045

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OFFICE OF PETITIONS

In re Application of :
Christopher L. Steadham et al :
Application No. 10/335,481 : DECISION GRANTING PETITION
Filed: December 31, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. ACSC 59799 (2187P) :

This is a decision on the petition, filed August 31, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 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]

The petition to withdraw from issue is not signed. However, the signature is considered to be ratified by the accompanying signed Transmittal Form and RCE which reference the petition to withdraw from issue.

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

This matter is being referred to Technology Center AU 3763 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement and amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

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HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES CA 90045

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OFFICE OF PETITIONS

In re Application of	:	
Steadham et al.	:	DECISION ON PETITION TO
Application No. 10/335,481	:	WITHDRAW HOLDING OF
Filed: 31 December, 2002	:	ABANDONMENT
Attorney Docket No. **ACSC 59799 (2187P)**	:	

This is a decision on the petition filed on 8 December, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

A review of the record reveals that a Office action requiring restriction and or election was mailed on 23 March, 2006, which set a one (1) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. As such, the application became for failure to timely reply to the Notice mailed on 24 April, 2006. Notice of Abandonment was mailed on 30 November, 2006.

Petitioners assert that a reply to the Office action was timely filed. In support, petitioners have supplied a copy of an election in response to the restriction requirement mailed on 23 March, 2006, which contains a Certificate of Mailing or Transmission dated 11 April, 2006, stating that the correspondence was deposited in first class mail, and signed by petitioner's counsel, registered patent attorney Gunther O. Hanke. The petition, filed on 8 December, 2006, was also signed by attorney Hanke and states that "[e]nclosed is a copy of the Response as timely mailed."

As petitioners have provided convincing evidence that an amendment was transmitted to the USPTO on 11 April, 2006, the showing of record is that a response was timely filed, and that 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 Technology Center Art Unit 3763 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

#4

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TECHNOLOGY CENTER 2100

Paper No. 4

Conley Rose, P.C.
5700 Granite Parkway
Suite 330
Plano, TX 75024

In re Application of: Banzhof
Application No. 10/335,490
Filed: December 31, 2002
For: AUTOMATED COMPUTER VULNERABILITY RESOLUTION SYSTEM

DECISION ON PETITION TO MAKE SPECIAL UNDER M.P.E.P.§708.02(II): INFRINGEMENT

This is a decision on the petition, filed April 6, 2004, under 37 C.F.R. 1.102(d) and M.P.E.P. §708.02(II): Infringement, to make the above-identified application special.

A grantable petition under 37 C.F.R. 1.102(d), and M.P.E.P. §708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R. 1.17(h) and a statement under 37 C.F.R. 1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that: (A) there is an infringing device or product actually on the market or method in use; (B) 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) he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed April 6, 2004 includes all of the requirements set forth above and, therefore, the petition is **GRANTED**.

The application is being forwarded to the examiner to be advanced out of turn for examination in accordance with the procedures set forth in M.P.E.P. §708.02 and 37 C.F.R. 1.102.

7/5/04

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 308-0885

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Paper No. 9

Fish & Richardson
225 Franklin Street
Boston, MA 02110-2804

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OFFICE OF PETITIONS

In re Appl. :
Fraser Harvie et al. :
Application No. 10/335,491 : DECISION GRANTING PETITION
Filed: December 31, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 00167-490001/02-31-0471 :

This is a decision on the petition, filed October 17, 2003 under 37 CFR 1.137(b) to revive the above-identified application.

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

The above-identified application became abandoned for failure to reply in a timely manner in reply to the Notice to File Missing Parts (Notice) mailed February 25, 2003. The Notice set a period for reply of two (2) months. A three (3) month extension of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on July 19, 2003.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1080 extension of time submitted with the petition on October 17, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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EMC CORPORATION
OFFICE OF THE GENERAL
COUNSEL
176 SOUTH STREET
HOPKINTON, MA 01748

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MAR 2 8 2007

OFFICE OF PETITIONS

In re Application of

Barrett, et al. :

Application No. 10/335,509 : DECISION ON PETITION

Filed: December 31, 2002 :

Attorney Docket No. EMC-02-188

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

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply in a timely manner to the final Office action mailed June 1, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. A response was filed on November 3, 2006, with a request for an extension of time within the second month. An Advisory Action mailed November 21, 2006, advised petitioner that the response of November 3, 2006, failed to place the application in condition for allowance. No further responses were filed within the allowable period. The application became abandoned on November 2, 2006. A Notice of Abandonment was mailed on December 15, 2006.

The Request for Continued Examination filed January 4, 2007, is noted and made of record

The application is being forwarded to Technology Center 2100, GAU 2191 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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Paper No. 5

IANDIORIO & TESKA
260 BEAR HILL ROAD
WALTHAM MA 02451-1018

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OFFICE OF PETITIONS

In re Application of :
Peter A. Warren :
Application No. 10/335,512 : ON PETITION
Filed: 31 December, 2002 :
Attorney's Docket No. FM-222J :

Receipt is acknowledged of the petition captioned under 37 CFR 1.181 filed on 23 April, 2003, concerning the U.S. Patent and Trademark Office's handling of an application assigned application Serial No. 10/335,512.

The petition is dismissed.

The application was filed on 31 December, 2002. However, on 20 February, 2003, Initial Patent Examination Division mailed a Notice to File Corrected Application Paper stating that the application had been accorded a filing date of 31 December, 2002, and advising applicant that Figure 11 described in the specification appeared to have been omitted. Additionally, substitute drawings in compliance with 37 CFR 1.84 and 1.121 were required.

In response, the present petition was filed. Petitioners explain that Figure 11 was not missing on 31 December, 2002. Instead, Figure 11 was obscured by a stick-on label identifying the Applicant, Title, Docket Number, Attorney and page number placed on the page containing Figure 11.

It is obvious from the petition that no drawing was actually missing on 31 December, 2002. Rather, the drawing of Figure 11 was simply obscured as a result of the applicant's placing a stick-on label over top of it. However, the "Notice" mailed on 20 February, 2003, was correct in stating that Figure 11 described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

The present petition was not necessitated by any error on the part of the Office and the $130.00 petition was required upon filing of the petition. Thus, the $130.00 petition fee will not be refunded.

The stick-on label covering Figure 11 has been removed and placed on the reverse side of the drawing sheet containing Figure 11 as originally submitted. The application will be processed and examined using the application papers filed on 31 December, 2002. The copies of the drawing figures supplied with the present petition will not be used for processing or examination, but will be retained in the application file.

Receipt is acknowledged of the corrected drawings filed on 23 April, 2003. The corrected drawings are not considered part of the original disclosure and must be reviewed by the examiner for new matter.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of 31 December, 2002, using the application papers filed on that date.

Telephone inquiries concerning this matter 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MARY Y. REDMAN
MEDTRONIC, INC
710 MEDTRONIC PARKWAY
NE M.S. LC 340
MINNEAPOLIS MN 55432-5604

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SEP 18 2007

OFFICE OF PETITIONS

In re Application of :
Douglas K. Medema et al :
Application No. 10/335,542 : DECISION GRANTING PETITION
Filed: December 31, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 1023-065US01 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 11, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of January 10, 2007, 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 Patent Publication.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MARK A. LITTMAN & ASSOCIATES, PA
YORK BUSINESS CENTER, SUITE 205
3209 WEST 76th ST
EDINA MN 55435

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NOV 2 0 2006
OFFICE OF PETITIONS

In re Application of :
Kathleen Nylund Jackson :
Application No. 10/335,554 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No. 310.003US1 :

This is a decision on the petition under 37 CFR §1.137(a) to revive the above-identified application, filed October 31, 2006. This petition will be treated as a petition to withdraw the holding of abandonment pursuant to 37 CFR 1.181.

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

The petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

This above-identified application became abandoned for failure to file a response to a Notice to File Corrected Application Papers which was mailed on February 21, 2003. The Notice to File Corrected Application Papers set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on April 22, 2003. A Notice of Abandonment was mailed on April 23, 2002.

Petitioner asserts that the Notice to File Corrected Application Papers mailed on February 21, 2003 was never received. A review of the record indicates the correspondence address provided on the declaration and transmittal letter was improperly entered into Office records. Consequently, the Notice to File Corrected Application Papers was mailed to an incorrect correspondence address.

This application is being forwarded to the Office of Initial Patent Examination for review of the drawings submitted October 31, 2006. The re-mailing of the Notice to File Corrected Application Papers is not required.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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SEP 21 2007

OFFICE OF PETITIONS

LAMORTE & ASSOCIATES P.C.
P.O. BOX 434
YARDLEY PA 19067

In re Application of :
Patrick J. Turner :
Application No. 10/335,565 : DECISION ON PETITION
Filed: January 3, 2003 :
Attorney Docket No. Turner-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 8, 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.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed August 12, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on November 15, 2005 (November 12, 2005, the due date, was a Saturday). A Notice of Abandonment was mailed on August 8, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and $250 fee therefor; (2) the petition fee of $750; and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of August 12, 2005 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 3723 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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P.O. Box 1450
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DLA PIPER RUDNICK GRAY CARY US LLP
153 TOWNSEND STREET
SUITE 800
SAN FRANCISCO CA 94107-1907

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OCT 19 2006

OFFICE OF PETITIONS

In re Application of
Fred P. Lane et al
Application No. 10/335,586
Filed: December 31, 2002
Attorney Docket No. 2505377-991341

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 14, 2006.

The petition 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 reason 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 a matter pending before the Office unless such request or such withdrawal is" for one of the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, that: The application is being transferred to another attorney, do not meet any of the conditions set forth in 37 CFR 10.40.

All communications from the Office will continue to be directed to the above address of record until otherwise properly notified by applicant/assignee.

This application is abandoned for failure to timely reply to the Non-final Rejection mailed February 23, 2006.

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

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
FRED P. LANE
419 PATRICIA LANE
HIGHLAND VILLAGE, TX 75077

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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153 TOWNSEND STREET
SUITE 800
SAN FRANCISCO CA 94107-1907

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AUG 24 2006

OFFICE OF PETITIONS

In re Application of :

Fred P. Lane :
Application No. 10/335,587 : DECISION ON PETITION
Filed: December 31, 2002 : TO WITHDRAW
Attorney Docket No. 2505377-99351 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed April 14, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others and include a proper reason for the withdrawal as set forth in 37 CFR 10.40(b) or (c). A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 CFR § 1.136(a).

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

Applicant is reminded that there is an outstanding March 9, 2006 Office action that requires a reply from the applicant.

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- 3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JAS IP CONSULTING
343 2ND STREET
LOS ALTOS, CA 94022

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070612

DATE : June 12, 2007

TO SPE OF : ART UNIT 3753

SUBJECT : Request for Certificate of Correction on Patent No.: 7,159,614 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:

Eric Keasel

SPE: Eric Keasel **Art Unit** 3753

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HONEYWELL INTERNATIONAL, INC.
PATENT SERVICES GROUP
101 COLUMBIA RAOD
MORRISTOWN, NJ 07962

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APR 13 2007

OFFICE OF PETITIONS

In re Application of :
John D. Pickell :
Application No. 10/335,596 : DECISION ON PETITION
Filed: December 31, 2002 :
Attorney Docket No. H0003617US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 5, 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 November 15, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed August 15, 2006. Accordingly, the date of abandonment of this application is November 16, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400 and the publication fee of $300, (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: HOLLINGTSWORTH & FUNK, LLC
8009 34th AVENUE SOUTH
SUITE 125
MINNEAPOLIS, MN 55425

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MINNEAPOLIS MN 55440-1022

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JUN 18 2008

OFFICE OF PETITIONS

In re Application of	:	
Jan Weber	:	
Application No. 10/335,604	:	DECISION GRANTING PETITION
Filed: January 2, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 10527-423001	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 16, 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 November 27, 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) 272-3208.

This application is being referred to Technology Center AU 3734 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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SEP 04 2008

In re Application of :
Weber : LETTER REGARDING PTA
Application No. 10/335,604 :
Filed: January 2, 2003 :
Atty. Dkt. No.: 10527-423001 :

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed November 27, 2007. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed August 27, 2007 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 875 days. Applicant indicates that this adjustment appears to be longer than appropriate because the Office neglected to assess a reduction in connection with the Notice of Appeal filed December 22, 2006. The issue fee was received November 27, 2007.

However, prior to a decision on the application for patent term adjustment being rendered, on June 16, 2008, applicant filed a petition to withdraw from issue and a request for continued examination. The application was withdrawn from issue and prosecution was reopened, as indicated by decision mailed on June 18, 2008.

In view thereof, a decision is being **held in abeyance** until after the mailing of any new Notice of Allowance and the filing (or resubmission) of any application for patent term adjustment under 37 CFR 1.705(b). A new determination of patent term adjustment will accompany any new Notice of Allowance and will include any further adjustments or reductions accrued to date. Applicant must submit a timely application for patent term adjustment in response to any new Notice of Allowance. An application for patent term adjustment under 37 CFR 1.705(b) is properly filed after the mailing of the Notice of Allowance on which the application issues and prior to payment of the issue fee (or a request for reapplication of the issue fee) in response to that Notice. A copy of this decision should accompany the application for patent term adjustment, along with

a request to apply the fee set forth in 37 CFR 1.18(e) paid on November 27, 2007

Technology Center AU 3734 has been advised of this decision. The application is, thereby, forwarded to the Technology Center for consideration of the RCE by the examiner.

Telephone inquiries specific to this decision should be directed to the Alesia M. Brown at (571) 272-3205.

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

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Paper No.

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

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DEC 0 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Anand G. Dabak et al.	:	
Application No. 10/335,610	:	DECISION ON PETITION
Filed: January 2, 2003	:	PURSUANT TO
Attorney Docket No.: TI-34888	:	37 C.F.R. § 1.137(B)
Title: MULTI-CARRIER	:	
TRANSMITTER FOR ULTRA-WIDEBAND	:	
(UWB) SYSTEMS	:	

This is a decision on the petition, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application, filed on May 8, 2008.

This petition is **DISMISSED**.

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 October 10, 2007, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no response was received. Accordingly, the above-identified application became abandoned on January 11, 2008.

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 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the

required reply from the due date for the reply until the filing of a grantable petition pursuant to 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 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

37 C.F.R. § 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional. Since the statement contained in this petition varies from the language required by 37 C.F.R. § 1.137(b)(3), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.137(b)(3) and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

With this petition, Petitioner has submitted an amendment, the petition fee, and a statement that is being construed as the proper statement of unintentional delay.

Petitioner has met the second and third requirements of Rule 1.137(b). The fourth requirement is not applicable, as a terminal disclaimer is not required.

Regarding the first requirement, the requirement has not been satisfied because Petitioner did not submit the required reply to the Office action. The required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed.[1] In order for the application to be revived, Petitioner must submit a reply which satisfies 37 C.F.R. § 1.137(b)(1) (*i.e.*, a Notice of Appeal (and fee required by law); an amendment that *prima facie* places the application in condition for allowance; a continuing application under 37 C.F.R. § 1.53(b); a request for continuing examination under 37 C.F.R. § 1.114, if applicable; or a 37 C.F.R. § 1.129(a) submission, if applicable).

The Examiner has considered the amendment that was filed concurrently with this petition, and it has not been found to

1 See M.P.E.P. § 711.03(c).

place this application in condition for allowance, for the reasons set forth in the attached Advisory Action.

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

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[2] hand-delivery,[3] or facsimile.[4] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[5]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

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.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[6] All other inquiries

---

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.
5 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
6 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

concerning examination procedures or the attached Advisory Action should be directed to the Examiner.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Encl. Advisory Action

cc: Robert N. Rountree, LLC
70360 Highway 69
Cotopaxi, CO 81223

written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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JAN 13 2009

OFFICE OF PETITIONS

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

In re Application of	:	
Anand G. Dabak et al.	:	
Application No. 10/335,610	:	DECISION ON RENEWED PETITION
Filed: January 2, 2003	:	PURSUANT TO
Attorney Docket No.: TI-34888	:	37 C.F.R. § 1.137(B)
Title: MULTI-CARRIER	:	
TRANSMITTER FOR ULTRA-WIDEBAND	:	
(UWB) SYSTEMS	:	

This is a decision on the renewed petition, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application, filed on December 29, 2008.

This renewed petition is **GRANTED**.

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 October 10, 2007, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no response was received. Accordingly, the above-identified application became abandoned on January 11, 2008.

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 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the

required reply from the due date for the reply until the filing of a grantable petition pursuant to 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 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

An original petition pursuant to 37 C.F.R. § 1.137(b) was filed on May 8, 2008, along with, *inter alia*, the petition fee. The original petition was dismissed via the mailing of a decision on December 5, 2008.

With this renewed petition, Petitioner has submitted the proper statement of unintentional delay as well as an after-final amendment that has been considered by the Supervisor of the Examiner of record.

Petitioner has met the first three requirements of Rule 1.137(b). The fourth requirement is not applicable, as a terminal disclaimer is not required.

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 after-final amendment that was submitted with this renewed petition can be processed.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

It is noted that the address listed on this renewed 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.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1] All other inquiries concerning examination procedures should be directed to the Examiner.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Robert N. Rountree, LLC
70360 Highway 69
Cotopaxi, CO 81223

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

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Paper No.

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

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JUL 0 9 2009

OFFICE OF PETITIONS

In re Application of :
Anand G. Dabak et al. :
Application No. 10/335,610 : DECISION ON SECOND
Filed: January 2, 2003 : RENEWED PETITION PURSUANT TO
Attorney Docket No.: TI-34888 : 37 C.F.R. § 1.137(B)
Title: MULTI-CARRIER :
TRANSMITTER FOR ULTRA-WIDEBAND :
(UWB) SYSTEMS :

This is a decision on the second renewed petition, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application, filed on April 17, 2009.

This second renewed petition is **DISMISSED AS MOOT.**

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 October 10, 2007, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no response was received. Accordingly, the above-identified application became abandoned on January 11, 2008.

An original petition pursuant to 37 C.F.R. § 1.137(b) was filed on May 8, 2008, and was dismissed via the mailing of a decision on December 5, 2008. **A renewed petition** pursuant to 37 C.F.R. § 1.137(b) was filed on December 29, 2008, and **was granted via the mailing of a decision on January 13, 2009.**

It follows that this second renewed petition is not necessary. The Technology Center will be notified of this decision.

It is noted that the revival has been acknowledged by the Technology Center in response to the decision of January 13, 2009.

It is noted that the address listed on this renewed 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.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1] All other inquiries concerning examination procedures should be directed to the Examiner.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Robert N. Rountree, LLC
70360 Highway 69
Cotopaxi, CO 81223

---

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

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

Mail Date: 04/30/2010

Applicant	: Anand G. Dabak	: DECISION ON REQUEST FOR
Patent Number	: 7609612	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/335,610	: OF WYETH
Filed	: 01/02/2003	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 04/23/2010

Applicant	: Parag A. Agashe	: DECISION ON REQUEST FOR
Patent Number	: 7599655	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/335,626	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/02/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **991** 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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MCNEES WALLACE & NURICK LLC
100 PINE STREET
P.O. BOX 1166
HARRISBURG, PA 17108-1166

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JUN 14 2006

OFFICE OF PETITIONS

In re Application of :
John F. Ackerman, et al. :
Application No. 10/335,647 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No.: 13DV-13957 (07783-0122) :

This is a decision on the petition, filed June 9, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 30, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 3746 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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MOTOROLA, INC.
LAW DEPARTMENT – MD 1610
8000 WEST SUNRISE BOULEVARD
PLANTATION, FL 33322

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SEP 2 1 2005

OFFICE OF PETITIONS

In re Application of :
Young-Seo Park :
Application No. 10/335,651 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No. CM03782J :

This is a decision on the petition under 37 CFR 1.137(b), filed July 20, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed March 18, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 19, 2005.

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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EATON CORPORATION
EATON CENTER
1111 SUPERIOR AVENUE
CLEVELAND, OH 44114

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JUL 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Allan S. Ludwig et al :
Application No. 10/335,670 : ON PETITION
Filed: January 2, 2003 :
Attorney Docket No. 02-MAR-065 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed July 27, 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)). The amendment submitted on January 21, 2005 did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed February 8, 2005. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed. Extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on January 28, 2005.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of a continuing application No. 11/097,705.

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

This matter is being referred to Files Repository.

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

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Paper No. 5

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BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET
SUITE 4000
CHARLOTTE, NC 28280-4000

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NOV 12 2003

OFFICE OF PETITIONS

In re Application of	:
Edward E. Barker III et al	:
Application No. 10/335,678	: DECISION GRANTING STATUS
Filed: January 2, 2003	: UNDER 37 CFR 1.47(A)
For: CONTAINER FOR DISPENSING COMESTIBLES	:

This is in response to the petition under 37 CFR 1.47(a), filed September 5, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, deposit account No. 16-0605 will be charged the fee for the petition under 37 CFR 1.47 ($130).

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

This application is being forwarded to Technology Center AU 3754 for examination in due course.

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

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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STEPHEN C. DUNN
64 FOREST AVENUE EXT.
NATICK, MA 01760

In re Application of
Barker III; Bussiere; Dark; and Dunn
Application No. 10/335,678
Filed: January 2, 2003
For: CONTAINER FOR DISPENSING COMESTIBLES

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NOV 12 2003
OFFICE OF PETITIONS

Dear Mr. Dunn:

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

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

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

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

cc:
ALSTON & BIRD
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET
SUITE 4000
CHARLOTTE, NC 28280-4000

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THOMAS L. BUSSIERE
11 BROOK STREET
FRANKLIN, MA 02038

In re Application of
Barker III; Bussiere; Dark; and Dunn
Application No. 10/335,678
Filed: January 2, 2003
For: CONTAINER FOR DISPENSING COMESTIBLES

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NOV 12 2003

OFFICE OF PETITIONS

Dear Mr. Bussiere:

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

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

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

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

cc:
ALSTON & BIRD
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET
SUITE 4000
CHARLOTTE, NC 28280-4000

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NOV 12 2003

OFFICE OF PETITIONS

MARK A. DARK
72 MILK STREET
BLACKSTON, MA 01504

In re Application of
Barker III; Bussiere; Dark; and Dunn
Application No. 10/335,678
Filed: January 2, 2003
For: CONTAINER FOR DISPENSING COMESTIBLES

Dear Mr. Dark:

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

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

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

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

cc:
ALSTON & BIRD
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET
SUITE 4000
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Paper No.

In re Application of: Bhogal et al.

Serial No.: 10/335687
Filed: 3/30/2003
For: 39267, HUMAN KINASE FAMILY MEMBERS AND USES THEREFOR

DECISION *SUA SPONTE* WITHDRAWING HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

The notice of abandonment mailed on April 4, 2006 was sent in error.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the Notice of Abandonment is hereby vacated, the holding of abandonment withdrawn and the application restored to pending status.

The Office action mailed on December 30, 2005 will be re-mailed. The shortened statutory period for reply will be reset to run from the date the action is remailed.

Any inquiry regarding this decision should be directed to, Pre Grant Publication at (703) 605-4283.

Kaletus King

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/335,687	01/02/2003	Rachel E. Meyers	MPI02-001P1RNM	6033

30405 7590 05/15/2006

MILLENNIUM PHARMACEUTICALS, INC.
40 Landsdowne Street
CAMBRIDGE, MA 02139

EXAMINER	
STEADMAN, DAVID J	

ART UNIT	PAPER NUMBER
1656	

DATE MAILED: 05/15/2006

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

22 DEC 2003

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FEB 13 2004
PATENT & TRADEMARK OFFICE
TC102

Reinhart Boerner Van Deuren s.c.
1000 North Water Street, Suite 2100
Milwaukee, WI 53202

In re Application of	:	
Samuelson	:	DECISION
Application No.: 10/335,706	:	
Filing Date: 02 January 2003	:	ON
Attorney Docket No.: 7380	:	
For: Means For Applying Images To Other Images	:	PETITION

This is a decision on applicant's "Petition For Conversion..." filed on 21 October 2003.

BACKGROUND

International application PCT/GB01/02951 was filed on 03 July 2001 and claimed an earliest priority date of 03 July 2000. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Consequently, the 30 month period for payment of the basic national fee in the United States expired as of midnight on 03 January 2003. The international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

On 02 January 2003, Applicants filed the instant application.

DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). The official PTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.
>
> To clearly indicate an international application is being filed under 35 U.S.C. 371 the applicant should use the "Transmittal Letter for United States Designated Office" (Form PTO-1390) as the transmittal letter.
>
> Alternatively, one of the following indications may be used:
>
> 1) the applicant shall clearly state in the transmittal or cover letter that he or she is filing under 35 U.S.C. 371 or entering the national stage under PCT; or
>
> 2) the applicant clearly identifies in the oath or declaration the specification to which it is directed by referring to a particular international application by PCT Serial Number

DOCKETED 12/29/03

and International Filing Date and that he or she is executing the declaration as, and seeking a U.S. Patent as, the inventor of the invention described in the identified international application.

Applicants' transmittal letter of 02 January 2003 indicated that the papers were being filed as a "Utility Patent Application," and the form indicated it was "Only for new nonprovisional applications under 37 C.F.R. 1.53(b)." The attached "Fee Transmittal" sheet indicated that a "Utility filing fee" was being paid. All of these facts serve as indications that the application was intended to be filed under 35 U.S.C. 111 (a). The declaration filed on that date indicated that it was directed toward international application PCT/GB01/02951, but this was in conflict with the other indications discussed *supra*. In view of these instructions, there was no clear indication that the papers were filed under 35 U.S.C. 371 rather than 35 U.S.C. 111 (a). As such, the papers were properly processed as an application filed under 35 U.S.C. 111 (a).

Petitioner urges that applicant will suffer irreparable harm if conversion of the application filed under 35 U.S.C. 111(a) to an application filed under 35 U.S.C. 371 is not permitted, in that priority rights will be lost. However, petitioner has available alternative means to preserve those priority rights - specifically, since the international application co-pending with this application on 02 and 03 January 2003, applicant may file a petition to accept an unintentionally delayed benefit claim under 37 CFR 1.78(a) in order to claim benefit of international application PCT/EP00/02839 under 35 U.S.C. 120. *See also* 37 CFR 1.78.

Applicant is reminded that, in order to perfect the claim for priority under 35 U.S.C. 119, applicant must submit a certified copy of the priority document. The certified copy of priority document submitted to the International Bureau cannot be relied upon to perfect the claim for priority. *See* MPEP § 1896.

DECISION

Applicants' request is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182." No additional petition fee is required. 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, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

Boris Milef
PCT Legal Examiner
PCT Legal Office

George Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

21 MAR 2005

#6

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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Reinhart Boerner Van Deuren s.c.
1000 North Water Street, Suite 2100
Milwaukee, WI 53202

In re Application of	:	
Samuelson	:	DECISION
Application No.: 10/335,706	:	
Filing Date: 02 January 2003	:	ON
Attorney Docket No.: 7380	:	
For: Means For Applying Images	:	PETITION
To Other Images	:	

This is a decision on applicant's "Petition Under 37 CFR 1.78(a)..." filed on 13 February 2004.

BACKGROUND

International application PCT/GB01/02951 was filed on 03 July 2001 and claimed an earliest priority date of 03 July 2000. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Consequently, the 30 month period for payment of the basic national fee in the United States expired as of midnight on 03 January 2003. The international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

This application was filed on 02 January 2003 and was properly processed under 35 U.S.C. 111(a), as described in the decision mailed on 22 December 2003.

DISCUSSION

37 CFR 1.78(a)(2) applies to nonprovisional applications which were filed on or after November 29, 2000. A petition under 37 CFR 1.78(a)(3) is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In the present case, the later filed application under 35 U.S.C. 111(a) was filed on 02 January 2003 and the petition was filed after the time period specified in 37 CFR 1.78(a)(2)(ii).

37 CFR 1.78(a)(3) states:

> 3) If the reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section is presented in a nonprovisional application after the time period provided by paragraph (a)(2)(ii) of this section, the claim under 35 U.S.C. 120, 121 or 365(c) for the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America may be accepted if the reference identifying the prior-filed application by application number or international application number and international filing date was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35

U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed application must be accompanied by:

(I) The reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section to the prior-filed application, unless previously submitted;

(ii) The surcharge set forth in §§ 1.17(t); and

(iii) A statement that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of this section and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Items (1), (2) and (3) have been satisfied for the following reasons. The required reference to the prior filed application was included in the "Preliminary Amendment" filed on 13 February 2004. The fee has been paid. The petition includes an appropriate statement of unintentional delay. Therefore, all of the requirements for relief under 37 CFR 1.78(a)(3) have been satisfied.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.78(a)(3) is GRANTED.

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

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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KILYK & BOWERSOX, P.L.L.C.
3603 CHAIN BRIDGE ROAD
SUITE E
FAIRFAX VA 22030

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JAN 0 6 2005

OFFICE OF PETITIONS

In re Application of :
De La Vega et al. :
Application No. 10/335,707 : ON PETITION
Filed: January 2, 2003 :
Attorney Docket No. 5010-022-12 :
Title: METHODS OF VALIDATING SNPS AND :
COMPILING LIBRARIES OF ASSAYS :

This is a decision on the petition under 37 CFR 1.182, filed on December 14, 2004, to change the name of the co-inventor for the above-identified application.

The petition is **GRANTED**.

The name of the third co-inventor's name will be changed from "Hadar Itzhak Avi-Itzbak" to **--Hadar I. Isaac--**.

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

Charlema R. Grant

Petitions Attorney

Office of Petitions

enclosure corrected filing receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 6

ROBERT W. MULCAHY
520 SEQUOIA DRIVE
SUNNYVALE, CA 94086

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MAR 1 8 2004

OFFICE OF PETITIONS

In re Application of :
Abimael Cordova :
Application No. 10/335,708 : ON PETITION
Filed: January 2, 2003 :
Attorney Docket No. MAT768D1 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 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 Nonprovisional Application mailed February 21, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 22, 2003.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), it will be interpreted as the required statement. Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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

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

Retta Williams

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

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SEP 14 2005

OFFICE OF PETITIONS

PRITZKAU PATENT GROUP
993 GAPTER ROAD
BOULDER, CO 80303

In re Application of :
Manoja D. Weiss :
Application No. 10/335,731 : ON PETITION
Filed: January 2, 2003 :
Attorney Docket No. Phiar-4 :

This is a decision on the petition, filed May 23, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 26, 2004, which set a shortened statutory period for reply of three (3) months. It is noted that a response was filed on September 24, 2004; however, the response was not considered timely since the extension of time fee was deficient. A Notice of Abandonment was mailed on December 23, 2004. On May 23, 2005, the present petition was filed, along with a 3-month extension of time and a copy of the response previously submitted.

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, the $510 extension fees submitted with the present petition are being credited to counsel's deposit account.

It is noted that the address given on the petition differs from the address of record. If appropriate a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The file is being referred to Technology Center Art Unit 2821 for consideration of the amendment filed September 24, 2004.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: YORIKO MORITA
PHIAR CORPORATION
1415 ARAPAHOE COURT
BOULDER, CO 80302

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUN 23 2006
OFFICE OF PETITIONS

In re Application of :
Delton R. Thompson :
Application No. 10/335,752 : ON PETITION
Filed: January 2, 2003 :
Attorney Docket No.: 58126US002 :

This is a decision on the petition, filed June 15, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 15, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 1733 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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CHARLES E. BAXLEY, ESQ.
90 JOHN STREET, SUITE 309
NEW YORK, NY 10038

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JUL 20 2005

OFFICE OF PETITIONS

In re Application of	:	
Chun Fa Fu	:	
Application No. 10/335,757	:	DECISION GRANTING PETITION
Filed: December 27, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 3842CT	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 15, 2005, 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 November 26, 2004, as required by the Notice of Allowance and Fee(s) Due, mailed August 26, 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 $700 issue fee and $300 publication fee; (2) the $750 petition fee; and (3) the required statement of unintentional delay have been received. 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) 272-3218.

This matter is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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AUG 23 2005

OFFICE OF PETITIONS

In re Application of :
Steven Craig Gehling et al : DECISION ON PETITIONS
Application No. 10/335,759 : UNDER 37 CFR 1.78(a)(3) AND
Filed: December 31, 2002 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 17573A :

This is a decision on the petition, filed March 31, 2005, which is being 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 the prior-filed applications set forth in the concurrently filed amendment. This is also a decision on the concurrently filed petition under 37 CFR 1.48(a) to correct the inventorship in the application by adding the following inventors: Donald C. Harrison; James H. Liu; Wolfgang A. Ritschel; Chris Clendening; and Giovanni M. Pauletti.

The petition under 37 CFR 1.78(a)(3) and (a)(6) is **Dismissed**.

A decision on the petition under 37 CFR 1.48(a) will be held in abeyance pending the filing of an amendment correcting the deficiencies noted below in the claim for priority.

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

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

The petition fails to satisfy item (1) above.

The claim for priority states in pertinent parts, on page 2 of 24:

> "This application is a continuation-in-part of application Serial No. 10/349,029, filed **January 22, 2003,** which is a continuation-in-part of application Serial No. 09/626,025, filed July 27, 2000, which is a continuation-in-part of application Serial No. 09/249,963, filed February 12, 1999, issued as US Patent 6,086,909 * * * This application is based on and claims also priority of the Provisional Application No. 60/146,218, filed on **July 28, 1999**, and also claims the benefit of U.S. Provisional Application No. 60/347,719, filed January 10, 2002, herein incorporated by reference." [Emphasis added.]

The following deficiencies were noted in the claim for priority:

1. As this application (10/335,759) was filed on December 31, 2002, it cannot claim priority to Application No. 10/349,029, which was filed on January 22, 2003, which is **subsequent to, not prior to**, the filing date of the present application.

2. Application No. 09/626,025, filed July 27, 2000, cannot claim priority to Application No. 09/249,963, as this application issued on July 11, 2000, **prior to the filing date** of Application No. 09/626,025. Application No. 09/626,025 must have been filed prior to the issue date of Application No. 09/249,963.

3. There is also a missing link in the chain of applications for which petitioner is seeking priority. In this regard, there is no indication in the record of Application No. 09/626,025 referencing Application No. 09/249,963. Where an application claims a benefit under 35 U.S.C. § 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. However, this issue is moot, since Application No. 09/626,025 was filed after the issuance of prior-filed Application No. 09/249,963.

4. This application cannot claim priority to provisional Application No. 60/146,218 or provisional Application No. 60/049,325, since this application was filed more than twelve months from the filing date of the provisional applications.

Accordingly, petitioner must submit a substitute amendment, complying with the provisions of 37 CFR 1.121, correcting the above-noted deficiencies in the claim for priority. Petitioner is reminded that the incorporation by reference statement can only be included for the priority claim present on filing; i.e., provisional Application No. 60/347,719, which appears to be the only application to which petitioner can claim priority.

The substitute amendment must be accompanied by a "Renewed Petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6)."

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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NEENAH, WI 54956

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In re Application of :
Steven Craig Gehling et al :
Application No. 10/335,759 : DECISION DISMISSING PETITIONS
Filed: December 31, 2002 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 17573A :

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed January 17, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment; namely, nonprovisional Application Nos. 09/626,025, filed July 27, 2000, and 09/079,897, filed May 25, 1998, and provisional Application No. 60/049,325, filed June 11, 1997.

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 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 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.

Although a Notice of Abandonment in this application was mailed on August 29, 2006, this application was pending at the time of filing of the reference to the above-noted, prior-filed provisional application.

In view of the above and since all of the above requirements have 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) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Upon revival of this application, the examiner in this application will consider whether this application is entitled to claim benefit of priority under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications as set forth in the amendment to the specification filed January 17, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
10/335,759	12/31/2002	1616	3188	17573A	1	46	3

CONFIRMATION NO. 7149

CORRECTED FILING RECEIPT

OC000000020708423

23556
KIMBERLY-CLARK WORLDWIDE, INC.
401 NORTH LAKE STREET
NEENAH, WI 54956

Date Mailed: 10/05/2006

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)

Steven Craig Gehling, Oshkosh, WI;
Donald C. Harrison, Indian Hill, OH;
James H. Liu, Bratenahl, OH;
Wolfgang A. Ritschel, Cincinnati, OH;
Chris Clendening, Cleves, OH;
Giovanni M. Pauletti, Loveland, OH;

Power of Attorney:

Randall Fieldhack--43611

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/347,719 01/10/2002
and is a CIP of 09/626,025 07/27/2000 PAT 6,572,874
which is a CIP of 09/079,897 05/15/1998 PAT 6,197,327
which claims benefit of 60/049,325 06/11/1997

Foreign Applications

If Required, Foreign Filing License Granted: 02/25/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/335,759

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Medicated tampon

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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RESEARCH TRIANGLE PARK, NC 27709

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SEP 18 2006

OFFICE OF PETITIONS

In re Application of :
CHANG, et al. :
Application No. 10/335,764 : DECISION ON PETITION
Filed: January 2, 2003 : TO WITHDRAW
Attorney Docket No. 4080-117 : 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 21, 2006.

The request is **APPROVED**.

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

The request was signed by Steven Hultquist on behalf of all attorneys of record who are associated with customer No. 23448. Steven Hultquitst has been withdrawn as attorney or agent of record; all other attorneys Marianne Fuierer, Janet Elliot and Tristan Fuierer remain of record.

The correspondence address of record has been changed as of June 12, 2006 and the new correspondence address is the address indicated below.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: **MOORE & VAN PLLC**
P.O. BOX 13706
RESEARCH TRIANGLE PARK, NC 27709

cc: **DR. KEWN-JEN CHANG**
ARDENT PHARMACEUTICALS, INC.
104 SIERRA DRIVE
CHAPEL HILL, NC 27514

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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MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park NC 27709

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JAN 05 2010

In re Application of	:	
Chang et al.	:	DECISION ON PETITION
Application No. 10/335,764	:	TO WITHDRAW
Filed: January 2, 2003	:	FROM RECORD
Attorney Docket No. 021353-000106.117US	:	

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 2, 2009 and July 8, 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 was signed by Marianne Fuierer on behalf of all attorneys of record associated with Customer Number 24239. However, since the practitioners were not appointed by a Customer Number upon filing of the instant application, petitioner may not withdraw the practitioners by Customer Number.

Further, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

According to a review of current USPTO records petitioner has not recognized the current recorded assignee concerning the above-identified application or the first listed inventor. As such, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Additionally, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Currently, there is no outstanding Office action 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.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Marianne Fuierer
430 Davis Dr.
Morrisville, NC 27560

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P.O. BOX 13706
RESEARCH TRIANGLE PARK NC 27709

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MAR 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Chang et al.	:	DECISION ON PETITION
Application No. 10/335,764	:	TO WITHDRAW
Filed: January 2, 2003	:	FROM RECORD
Attorney Docket No. 021353-000106.117US	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 9, 2010.

The request is **NOT APPROVED.**

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

According to a review of current USPTO records petitioner has not recognized the current recorded assignee concerning the above-identified application or the first listed inventor. Mount Cook Biosciences, Inc. is not the current assignee of the above-identified application. As such, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, there is no outstanding Office action 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.

Joan Olszewski
Petitions Examiner
Office of Petitions

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JUN 15 2010

OFFICE OF PETITIONS

In re Application of	:	
Chang et al.	:	DECISION ON PETITION
Application No. 10/335,764	:	TO WITHDRAW
Filed: January 2, 2003	:	FROM RECORD
Attorney Docket No. 021353-000106.117US	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 3, 2010.

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 Marianne Fuierer on behalf of all attorneys of record.

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

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

Further, the USPTO records assignments but does not determine ownership. A review of USPTO assignment records indicates that Enthalpy Analytical, Inc. filed a lien but was never the assignee of the above-identified application. Therefore, USPTO records indicate that Mount Cook Biosciences, Inc is currently the assignee of record.

Currently, there is an outstanding Office action mailed March 31, 2010 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.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Mount Cook Biosciences, Inc.
787 7th Avenue, 48th Floor
NY, NY 10019

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CHRISTOPHER & WEISBERG, P.A.
200 EAST LAS OLAS BOULEVARD
SUITE 2040
FORT LAUDERDALE FL 33301

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JAN 17 2006

OFFICE OF PETITIONS

In re Application of
Ronald G. Fink
Application No. 10/335,777
Filed: January 2, 2003
Attorney Docket No. 6556.4818

DECISION ON PETITION

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

This application became abandoned for failure to properly and timely reply to the final Office Action, mailed January 14, 2005, which set a three (3) month shortened statutory period for reply. On July 13, 2005, petitioner filed an amendment and a request for an extension of time for response with the third month. On August 1, 2005, the examiner mailed an Advisory Action, stating that petitioner's response of July 13, 2005, to the final Office action had been considered but was not deemed to place the application in condition for allowance. Accordingly, the application became abandoned on July 15, 2005. On September 20, 2005, the Office mailed a Notice of Abandonment. On October 14, 2005, petitioner filed the present petition and a Notice of Appeal, and paid the petition fee and the Notice of Appeal fee.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of a Notice of Appeal, paid the requisite fees, and made the proper statement of unintentional delay. Accordingly, the petition is **granted.** **Petitioner must file an appeal brief within two months from the mailing date of this decision.**

This matter is being referred to Technology Center Art Unit 1753.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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P.O. Box 1450
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Schering-Plough
Law Department
2000 Galloping Hill Road
K-6-1, Mail Stop 1990
Kenilworth, New jersey

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JUL 12 2005

OFFICE OF PETITIONS

In re Application of
Taveras et al.
Application No. 10/335,789 : DECISION GRANTING PETITION
Filed: January 2, 2003
Attorney Docket No. OCO1536K1

This decision is in response to applicants' 'COMMUNICATION PATENT TERM ADJUSTMENT" and 'PETITION TO CORRECT U.S.P.T.O'S PATENT TERM ADJUSTMENT CALCULATIONS" filed November 10, 2004 and May 10, 2005 respectively requesting that (1) at the time of the mailing of the notice of allowance the Office adjust the PTA calculation 1 day downward and (2) at the time of the issuance of the patent adjust the PTA to reflect thirty-two days rather than the zero days assigned.

Applicants request are GRANTED. The office will *sua sponte* issue a certificate of correction reflecting that the correct amount of PTA at the time of the mailing of the issuance of the patent is (32) thirty-two days.

Applicants advised the Office that it missed the one day delay for responding the mailing of the Notice to File Missing Parts. Applicants assert that the amount of PTA should be 32 rather than 33 days. In addition, at the time of the issuance of the patent the PTA should remain 32 days rather than the zero days determined.

Applicants arguments are on the mark. First, the Office notes that the staff failed to enter the date of the mailing of the notice to file missing parts and accordingly the PTA determination did not measure the three month date of response. However, a review of the file history reflects that the Office mailed the Notice to File Missing Parts on February 20, 2003 and the response occurred on May 21, 2003, a one day delay. In addition, the applicant responded to the non-final office action mailed May 4, 2003 thirty days after the three month time period. See 37 CFR 1.704(b). In addition, the Office was 63 days late in initially acting on the application pursuant to 37 CFR 1.702(a)(1). Accordingly, at the time of the notice of allowance the proper PTA was 32 (63-30-1=32).

After the mailing of the notice of allowance, the Office staff entered a miscellaneous incoming letter entry into the PALM and accordingly the PTA determined that this paper was considered a failure to engage in reasonable efforts to conclude prosecution of the application. However, a

review of the file reflects that the "miscellaneous incoming letter" was in fact the good faith and candor letter submitted to the USPTO concerning the one day discrepancy in PTA determination at the time of the mailing of the notice of allowance. Accordingly, the Office assessed a one hundred and twenty (120) day reduction in error. Overall, the correct amount of PTA at the time of the issuance of the patent is thirty-two (32) days as suggested by applicant.

After the mailing of this decision, the patented file will be forwarded to the Certificate of Corrections branch for an issuance of a certificate of correction.

There is no fee associated with the good faith and candor letter. Accordingly, in this instance the Office will not assess a fee for the filing of a "petition" pursuant to 37 CFR 1.705(d).

Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor, Office of Patent Legal administration, Office of Deputy Commissioner for Patent Examination Policy

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

cc: Draft Certificate of Correction
Adjusted PAIR calculation

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-03-08

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/335795 Patent No.: 6790856

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch
703-308-9390 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

SPE **Art Unit** 1625

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DEC 15 2006

OFFICE OF PETITIONS

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

In re Application of :
Batra, et al. : DECISION ON PETITION
Application No. 10/335,803 :
Filed: January 2, 2003 :
Docket No.: TI-35455 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 27, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-final Office action mailed May 10, 2006. The Notice set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. This decision precedes Notice of Abandonment.

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

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

The correspondence address indicated on the instant petition differs from that contained in the official record. If petitioners desire to receive future correspondence regarding this application, the proper change of correspondence address must be submitted. All future correspondence concerning this application will be forwarded to the correspondence address of record until receipt of instruction to the contrary.

This application is being forwarded to Technology Center 2600 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: Robert Rountree
70360 Highway 69
Cotopaxi, CO 81223

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BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE WA 98104

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JAN 20 2006

OFFICE OF PETITIONS

In re Application of :
John Edwards et al. :
Application No. 10/335,804 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No. BOEI-1-1128 :

This is a decision on the petition to withdraw the holding of abandonment, filed December 13, 2005, under 37 CFR 1.181.

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

The application became abandoned November 27, 2004 for failure to timely pay the issue fee. A Notice of Allowance was mailed August 26, 2004 thus closing prosecution in the application. Payment of the issue fee was due not later than November 26, 2004. On November 29, 2004 (November 26, 2004 certificate of mail date), prior to payment of the issue fee, and therefore in lieu thereof, petitioners filed a Request for Continued Examination (RCE) under 37 CFR 1.114 however, on February 7, 2005, petitioners were advised that the RCE was improper because it was accompanied by a proper response as required by 37 CFR 1.114.

The instant petition and this decision precede the mailing of the Notice of Abandonment.

Petitioner asserts that a proper response in the form of an Information Disclosure Statement (IDS) was filed on November 29, 2004 (November 26, 2004 certificate of mail date) with the RCE. Submitted as proof is a post card receipt date stamped November 29, 2004 by the USPTO, and a certificate of mail dated November 26, 2004.

A search of the application file and the USPTO records does not reveal receipt of the IDS, but the evidence submitted corroborates a timely submission of the RCE and IDS as the submission under 37 CFR 1.114, after prosecution in the application was closed.

The Notice of Improper Request for Continued Examination (RCE) was sent in error. Accordingly, the holding of abandonment is hereby withdrawn. No petition fee is necessary and none has been charged.

This matter will be referred to Technology Center 2837 for processing of the RCE filed with an IDS on November 29, 2004.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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EXXONMOBIL CHEMICAL COMPANY
P.O. BOX 2149
BAYTOWN, TX 77522-2149

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JUN 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Mark W. Lockhart et al :
Application No. 10/335,818 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No. 2002B189

This is a decision on the petition, filed June 7, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 5, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The file will be forwarded to Technology Center AU 1773 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Date : June 9, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of Application No. 10/335,818

Applicant(s) : Mark W. Lockhart et al
Application No. : 10/335,818
Filed : December 31, 2002

The above-identified application has been assigned Patent No. 6,749,947 and an issue date of June 15, 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 : June 15, 2004.

"All reference to Patent No. 6,749,947 to Mark W. Lockhart et al of New York for MULTILAYER POLYOLEFIN SUBSTRATE WITH LOW DENSITY CORE AND STIFF OUTER LAYERS appearing in the Official Gazette of May 18, 2004 should be deleted since no patent was granted."

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

cc: Paul Harrison, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

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REED SMITH LLP
3110 FAIRVIEW PARK DRIVE, SUITE 1400
FALLS CHURCH, VA 22042

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DEC 14 2005

Technology Center 2100

In re Application of KAWAMOTO et al	:	
Application No.: 10/335,853	:	DECISION ON PETITION
Filing Date: January 3, 2003	:	FOR ACCELERATED
For: SYSTEM AND METHOD FOR VIRTUALIZING NETWORK STORAGES INTO A SINGLE FILE SYSTEM VIEW	:	EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition filed November 9, 2005 under 37 CFR §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

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

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status. The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed. If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention. If applicant refuses to make an election without traverse, the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn. Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new special status;

(C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. >The pre-examination search must be directed to the invention as claimed in the application for which special status is requested.< A search made by a foreign patent office satisfies this requirement >if the claims in the corresponding foreign application are of the same or similar scope to the claims in the U.S. application for which special status is requested<;

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

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

Because the petition filed November 9, 2005 meets the criteria set forth above, the petition to make special is **GRANTED**.

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

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3599

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Stanley P. Fisher
Reed Smith LLP
Suite 1400
3110 Fairview Park Drive
Fall Church, VA 22042-4503

Mail Date: 04/21/2010

Applicant	: Shinichi Kawamoto	: DECISION ON REQUEST FOR
Patent Number	: 7606871	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/335,853	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/03/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **776** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ARLINGTON, VA 22202

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OFFICE OF PETITIONS

In re Application of
Nelson et al.
Application No. 10/335,879
Filed: January 3, 2003
Attorney Docket No. 174-3US

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 17, 2003, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed February 28, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 29, 2003.

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

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

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WENDEROTH LIND & PONACK
SUITE 800
2033 "K" STREET N.W.
WASHINGTON, DC 20006

COPY MAILED

FEB 2 8 2005

OFFICE OF PETITIONS

In re Application of :
Yoshiichiro Kashiwagi et al :
Application No. 10/335,885 : ON PETITION
Filed: January 3, 2003 :
Attorney Docket No. 2002_1742 :

This is a decision on the petition under 37 CFR 1.313(c), filed February 25, 2005, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 30, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2616 for processing of the request for continued examination under 37 CFR 1.114.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P O BOX 14300
WASHINGTON, DC 20044-4300

COPY MAILED

AUG 17 2004

OFFICE OF PETITIONS

In re Application of	:	
Yuji Nakamura et al	:	
Application No. 10/335,891	:	DECISION GRANTING PETITION
Filed: January 3, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 038919.48658C1	:	

This is a decision on the petition, filed August 16, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 5, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 3617 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/12/08

TO SPE OF : ART UNIT ~~1771~~ 1794 Salvatore Lynda

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/335894 Patent No.: 7060156

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

[signature]
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: _____

/D Lawrence Tarazano/ 1786

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Bacon & Thomas, PLLC
625 Slaters Lane
Fourth Floor
Alexandria, VA 22314

COPY MAILED

AUG 2 7 2004

OFFICE OF PETITIONS

In re Application of: Yuan-Ping Lu	:	
Patent No. 6,780,124	:	
Issue Date: August 24, 2004	:	NOTICE
Application No. 10/335,918	:	
Filed: January 3, 2003	:	

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 being returned to Files Repository.

Inquiries related to this communication should be directed to the undersigned at (703) 308-6711.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/335,924	01/03/2003	Ayumu Tsujimura	740819-934	8597

20277 7590 01/12/2006

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

EXAMINER	
TRAN, TAN N	

ART UNIT	PAPER NUMBER
2826	

DATE MAILED: 01/12/2006

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

10/335,924

8

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-3-05

TO SPE OF : ART UNIT 2826

SUBJECT : Request for Certificate of Correction on Patent No.: 6,940,100

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.

BEST AVAILABLE COPY

Certificates of Correction Branch

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments:

The proposed corrections are acceptable

NATHAN J. FLYNN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

2826

Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

In re Application of	:
Mark C. Jury	:
Serial No.: 10/335,927	: STATUS LETTER
Filed: January 3, 2003	:
Attorney Docket No.: 040268-0176	:

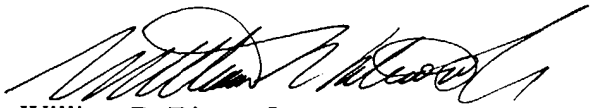
This is in response to applicant's attorney's request, filed September 17, 2003, to withdraw from representation in the above identified application.

§ 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or
(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicant's attorney has proivided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230.



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

41

SEP 17 2003
PATENT & TRADEMARK OFFICE

1661

Attorney Docket No. 040268-0176

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Mark C. Jury

Title: Magnolia Plant Named 'JURmag 2'

Appl. No.: 10/335,927

Filing Date: January 3, 2003

Examiner: K. Bell

Art Unit: 1661

WITHDRAWAL AS ATTORNEY OF RECORD

Commissioner for Patents
Washington, DC 20231

Sir:

Effective immediately, the following Foley & Lardner attorneys withdraw as Attorney of Record for the captioned application:

STEPHEN A. BENT	Reg. No.	29,768
DAVID A. BLUMENTHAL	Reg. No.	26,257
BETH A. BURROUS	Reg. No.	35,087
ALAN J. CANTOR	Reg. No.	28,163
WILLIAM T. ELLIS	Reg. No.	26,874
JOHN J. FELDHAUS	Reg. No.	28,822
MICHAEL D. KAMINSKI	Reg. No.	32,904
KENNETH E. KROSIN	Reg. No.	25,735
GLENN LAW	Reg. No.	34,371
PETER G. MACK	Reg. No.	26,001
BRIAN J. MC NAMARA	Reg. No.	32,789
RICHARD C. PEET	Reg. No.	35,792
GEORGE E. QUILLIN	Reg. No.	32,792
BERNHARD D. SAXE	Reg. No.	28,665
CHARLES F. SCHILL	Reg. No.	27,590
RICHARD L. SCHWAAB	Reg. No.	25,479
HAROLD C. WEGNER	Reg. No.	25,258

RECEIVED
SEP 23 2003
TECH CENTER 1600

NOT Approved
SPRS, TC 1600
10/17/03

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070219

DATE : February 19, 2007

TO SPE OF : ART UNIT 3765

SUBJECT : Request for Certificate of Correction on Patent No.: 6,920,645

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

Thank You For Your Assistance **Certificates of Correction Branch**

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

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: Gary L. Welch **Art Unit** 3765

UNITED STATES PATENT AND TRADEMARK OFFICE

Office

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APR 1 1 2005

Director's Office
Office of Patent Publication

MIN, HSIEH & HACK LLP
8270 GREENSBORO DRIVE
SUITE 630
MCLEAN VA 22102

In re Application of :
GAO, RENYUAN :
Application No. 10/335,944 : **DECISION ON PETITION**
Filed: January 3, 2003 :
Attorney Docket No. 07033.0019-01 :

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent and Trademark Office (USPTO) on September 14, 2004.

The petition is **DISMISSED**.

The application was held abandoned for applicants failure to timely file corrected drawings as required in the Notice of Allowability, mailed April 26, 2004.

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 for Withdrawal of Holding of Abandonment."

Applicant petitions that corrected formal drawings were submitted on January 3, 2003 and that the Notice of Allowability mistakenly indicated that drawing changes were required. Also, that the Examiner approved and accepted the formal drawings date September 12, 2003 and erroneously checked box number 6, indicating that corrected drawings must be submitted.

Applicant is advised that, where a requirement is made and no response to the requirement is received and no petition is filed within the period set forth in 37 CFR §1.181(f) traversing the requirement for corrected drawings made in the Notice of Allowability, petitioner is assumed to have acquiesced to the requirement. Therefore, this application became abandoned for failure to timely file corrected formal drawings or to file a grantable petition traversing the requirement for formal drawings.

The record fails to disclose that petitioner responded in any manner to this notice. Accordingly, this application is properly abandoned for failure to file corrected drawings in response to the Notice of Allowability.

Should applicant be confronted with this situation in the future, applicant may timely reply in writing (see 37 CFR § 1.2) and traverse such a requirement much as was done in the petition. Applicant has the option to contact the Examiner in regards to the Notice of Allowability and the Notice Of Draftsperson's Patent Drawing Review, requesting that he or she, in an Examiner Interview Summary Form or a Supplemental Notice of Allowability, which must be mailed prior to the expiration of the period for reply, upon reconsideration, withdraw any outstanding requirement.

Petitioner should seek relief by the filing a Petition to Revive An Abandoned Application under 37 CFR § 1.137.

Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidably*** abandoned application must include the following:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee set forth in § 1.17(l);
(3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable: and pursuant to paragraph (d) of this section.

Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application must be:

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

Telephone inquires relating to the filing of the Petition under 37 CFR 1.137 should be directed to the Office of Petitions at 703-305-9282 or addressed as follows:

By mail:
Mail Stop Petitions
Commissioner For Patents
Office Of Petitions
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquires relating to this decision may be directed to the undersigned at 703-308-9250.

Thomas Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publications

UNITED STATES 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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OCT 18 2005

OFFICE OF PETITIONS

MIN, HSIEH & HACK
8270 GREENSBORO DRIVE
SUITE 630
MCLEAN VA 22102

In re Application of :
Renyuan Gao :
Application No. 10/335,944 : ON PETITION
Filed: January 3, 2003 :
Attorney Docket No. 07033.0019-01 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 4, 2005, which is being treated as a Petition under 37 CFR 1.181(a) to Withdraw Holding of Abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit formal drawings in reply to the Notice of Allowability mailed April 26, 2004.

After careful review of the application file, the required drawings were located and forwarded to the Draftsman for approval. The drawings were approved by the Draftsman on October 17, 2005. Also, the Notice of Allowability mailed April 26, 2004, erroneously indicated that corrected drawings were required. Additionally, the drawings submitted on January 3, 2003, were approved and accepted by the examiner in an Office action mailed September 12, 2003.

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

Petitioner may request a refund of the petition fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

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

This matter is being referred to Patent Publication.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

20

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

In re Application of	:
Mark C. Jury	:
Serial No.: 10/335,952	: STATUS LETTER
Filed: January 3, 2003	:
Attorney Docket No.: 040268-0174	:

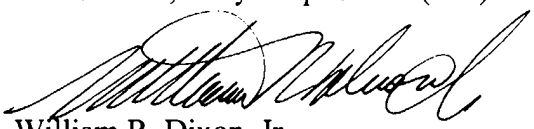
This is in response to applicant's attorney's request, filed September 17, 2003, to withdraw from representation in the above identified application.

§ 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or
(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicant's attorney has proivided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230.



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

SEP 17 2003
PATENT & TRADEMARK OFFICE

Attorney Docket No. 040268-0174

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Mark C. Jury

Title: Magnolia Plant Named 'JURmag 1'

Appl. No.: 10/335,952

Filing Date: January 3, 2003

Examiner: K. Bell

Art Unit: 1661

WITHDRAWAL AS ATTORNEY OF RECORD

Commissioner for Patents
Washington, DC 20231

Sir:

Effective immediately, the following Foley & Lardner attorneys withdraw as Attorney of Record for the captioned application:

STEPHEN A. BENT	Reg. No.	29,768
DAVID A. BLUMENTHAL	Reg. No.	26,257
BETH A. BURROUS	Reg. No.	35,087
ALAN I. CANTOR	Reg. No.	28,163
WILLIAM T. ELLIS	Reg. No.	26,874
JOHN J. FELDHAUS	Reg. No.	28,822
MICHAEL D. KAMINSKI	Reg. No.	32,904
KENNETH E. KROSIN	Reg. No.	25,735
GLENN LAW	Reg. No.	34,371
PETER G. MACK	Reg. No.	26,001
BRIAN J. MCNAMARA	Reg. No.	32,789
RICHARD C. PEET	Reg. No.	35,792
GEORGE E. QUILLIN	Reg. No.	32,792
BERNHARD D. SAXE	Reg. No.	28,665
CHARLES F. SCHILL	Reg. No.	27,590
RICHARD L. SCHWAAB	Reg. No.	25,479
HAROLD C. WEGNER	Reg. No.	25,258

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SEP 23 2003
TECH CENTER 1600/2900

NOT Approved
10/17/03

The undersigned is signing this withdrawal form on behalf of himself and all the aforementioned attorneys.

All further correspondence should be sent to:

Michael Doll
Fulwider Patton Lee & Utecht
200 Oceangate, Suite 1550
Long Beach, CA 90802

Tel: 562-432-0453
Fax: 562-435-6014

Respectfully submitted,

Date: 9/17/03

For Richard C. Peet Reg No 43445
FOLEY & LARDNER
Customer Number:
22428
Telephone: (202) 672-5483
Facsimile: (202) 672-5399

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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DEC 0 4 2006

OFFICE OF PETITIONS

In re Application of :
Eiichi Yasumoto et al :
Application No. 10/335,958 : ON PETITION
Filed: January 3, 2003 :
Attorney Docket No. 43888-230 :

This is a decision on the petition, filed December 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 October 13, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1745 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

6/30/03

Slater and Matsil LLP
17950 Preston Road Suite 1000
Dallas TX 75252-5793

Dear Applicant:

The Box PGPub replacement drawings for application number 10/335,962 received on 4/14/03 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Customer Service, Office of Initial Patent Examination, at 703-308-1202.

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

Signature of Reviewer, Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SIERRA PATENT GROUP, LTD.
P.O. BOX 6149
STATELINE, NV 89449

COPY MAILED

NOV 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Colin Whitby-Strevens :
Application No. 10/335,972 : ON PETITION
Filed: December 31, 2002 :
Attorney Docket No. APPL-P2831 :

This is a decision on the papers styled, "Petition To Grant Original Filing Date," filed September 27, 2004, which has been treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of December 31, 2002.

The application was filed on December 31, 2002. However, on February 19, 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 the filing fee, oath or declaration and abstract were missing. On April 22, 2003 (Certificate of Mailing Date: April 17, 2003) the filing fee and declaration were submitted. On August 6, 2003, OIPE mailed a "Notice of Incomplete Reply (Nonprovisional) - Filing Date Granted," that stated the abstract was still missing. On August 22, 2003 (Certificate of Mailing Date: August 19, 2003), the abstract and a four (4) month extension of time were submitted.

Petitioner states, "The above-identified patent application was filed on December 31, 2002 and this filing date was granted. On August 19, 2003 a Response to the Notice of Incomplete Reply was filed. The most current Filing Receipt now reflects the date the Response to the Notice of Incomplete Reply was received at the Patent Office as the filing date, August 22, 2003, instead of the original filing date, December 31, 2002.

A review of the application file indicates the filing date was erroneously changed to August 22, 2003.

In view of the above, the petition is granted.

The $130.00 petition fee, submitted September 27, 2004, will be refunded by to deposit account no. 50-0612.

This application will be returned to OIPE for issuance of a corrected filing receipt with a filing date of December 31, 2002.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GARDENER GROFF, P.C.
PAPER MILL VILLAGE, BUILDING 23
600 VILLAGE TRACE, SUITE 300
MARIETTA, GA 30067

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JUN 09 2004

OFFICE OF PETITIONS

In re Application of :
Jahnke :
Application No.: 10/335,978 : ON PETITION
Filing Date: January 2, 2003 :
Attorney Docket No.: 2C03.1-131 :

This decision concerns the May 21, 2004 "Petition for Correction of Filing Date" which is being properly treated as a petition under 37 CFR 1.10(c).

The petition is **GRANTED**.

The petition requests an earlier filing date of January 2, 2003 rather than the presently accorded filing date of January 3, 2003, on the basis that the application was deposited on January 2, 2003 in the U.S. Postal Service (USPS) "Express Mail Post Office to Addressee" service ("Express Mail") pursuant to the requirements of 37 CFR 1.10.

The petition is accompanied by a copy of the "Express Mail" mailing label bearing the number "EV097477895US" and containing a USPS "date-in" that appears to be "1/2/02," but also a USPS date-stamp of January 2, 2003. The same mailing label number appears on the application transmittal which itemizes the application papers being mailed on January 2, 2003. In addition, the Office has verified through the database provided to the USPTO by the USPS that the package mailed under this label had been accepted by the USPS on January 2, 2003 at 4:41 pm. The petition is thus granted.

No petition fee is owed, and none was charged to counsel's deposit account.

The application file is being forwarded to the Office of Initial Patent Examination for correcting the filing date to January 2, 2003, and for mailing a corrected filing receipt reflecting that filing date. Upon completion of pre-examination, the application file will be forwarded to Technology Center 2800 for examination in due course.

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

RC Tang
Petitions Attorney
Office of Petitions

UNITED STATES 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.
10/336,014	23-Jan-03	AMUEL E. SHECKELLS	2464-0107P

Title: SELF GRIPPING RACK WITH SNAP- ON FLEXIBLE STRAP

Art Unit	Paper Number

Correspondence Address:
JOE M. MUNCY
BIRCH, STEWART, KOLASCH & BIRCH
P. O. BOX 747
FALLS CHURCH, VA 22040-0747

PATENT & TRADEMARK OFFICE
MAILED

FEB 6 2004

LICENSING & REVIEW

Please find attached a communication from the Examiner regarding the Petition for Retroactive License under 37 CFR 5.25.

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

Birch, Stewart, Kolasch & Birch, LLP
P.O. Box 747
Falls Church, VA 22040-0747

In re:	Joe McKinney Muncy	:	DECISION ON REQUEST
Serial No.:	10/336,014	:	UNDER 37 CFR 5.25
Filing date:	03 January 2002		
Docket No:	2464-0107P		

Title: SELF GRIPPING RACK WITH SNAP-ON FLEXIBLE STRAP

This is a decision on the petition filed on 23 January 2003 for a retroactive foreign filing license.

37 CFR 5.25(a) requires the following:

1. A listing of each of the foreign countries in which the unlicensed patent application material was filed,
2. The dates on which the material was filed in each country,
3. A verified statement (oath or declaration) containing:
   i. An averment that the subject matter in question was not under a secrecy order at the time it was filed abroad, and that it is not currently under a secrecy order,
   ii. A showing that the license has been diligently sought after discovery of the proscribed foreign filing, and
   iii. An explanation of why the material was filed abroad through error and without deceptive intent without the required license under § 5.11 first having been obtained, and
4. The required fee (§ 1.17(h)).

The petition is **Denied** at this time in that the petition is defective since the requirements set forth in 37 C.F.R. 5.25(a)(3)(iii) have not been met.

> The verified statement must be given by the person that was authorized to decide where to file the foreign application. Also, the provided verified statement fails to present a clear explanation as to why the material was filed abroad through error and without deceptive intent with out the required licenses first having been obtained.

Accordingly, the provisions of 37 CFR 5.25 not having been fully met, the petition is denied, and in the absence of any response within **60 days** of the mailing date of this letter, such denial will be made final and the final action under 35 U.S.C. 185 will be taken. Extensions of time may be had under 37 C.F.R. 1.136(a).

Andrea M. Valenti

Andrea M. Valenti
Patent Examiner
Group 3643
(703) 305-3010

05 February 2004

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.
10/336,014	**1/23/03**	**AMUEL E. SHECKELLS**	**2464-0107P**

Title: **SELF GRIPPING RACK WITH SNAP-ON FLEXIBLE STRAP**

Art Unit	Paper Number

Correspondence Address:
JOE M. MUNCY
BIRCH, STEWART, KOLASCH & BIRCH
P. O. BOX 747
FALLS CHURCH, VA 22040-0747

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: 534,953
Grant Date: 29-Jul-05

This license is granted retroactively to the date(s) and the country(s) indicated on the attached decision.

Approved:
for Commissioner of Patents and Trademar

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 does not empower the filing of any applications, amendments, supplements or continuances originating in this country which disclose inventions, modifications, or variations not disclosed in the subject matter identified above.

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

The grant of this license does not in any way lesson the responsibility of the licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations, especially with respecct to certain countries, of other agencies, particularly the Office of Foreign Assets Control, 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 Adminsttration, 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:	SHECKELLS	:DECISION ON REQUEST
Petition No.:	10/336,014	:UNDER 37 CFR 5.25
Petition Filing Date:	3 January 2003	

Title: SELF GRIPPING RACK WITH SNAP-ON FLEXIBLE STRAP

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
Mexico	7 January 2003

Yvonne R. Abbott
Patent Examiner
Licensing & Review
(703) 308-2866

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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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Mail Date: 04/23/2010

Applicant	: Amuel E. Sheckells	: DECISION ON REQUEST FOR
Patent Number	: 7591384	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/336,014	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/03/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1691** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 23 2006

OFFICE OF PETITIONS

Mark L. Fleshner
P.O. Box 221200
Chantilly, VA 20153-1200

In re Application of :
Kevin Hoffman :
Application No. 10/336,036 : DECISION ON PETITION
Filed: January 13, 2003 : TO WITHDRAW
Attorney Docket No. EFRG-0200 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 4, 2005.

The request is **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 Customer Number 34610 did not appoint the attorney(s) and/or agent(s) of record.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Mr. Kevin Hoffman
15802 Lautrec Ct.
Gaithersburg, MD 20878

OIPE IAP99
SEP 25 2006
PATENT & TRADEMARK OFFICE

IFW

Docket No: EFRG-0020

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	Confirmation No.: 7520
Kevin HOFFMAN, Jim ANZALONE and Chris CORMACK	Group Art Unit: 2152
Serial No.: 10/336,036	Examiner: Unknown
Filed: 1/3/2003	**Customer No.: 34610**

For: WEB BASED METHOD AND SYSTEM FOR MANAGING AND TRANSFERRING BUSINESS INFORMATION

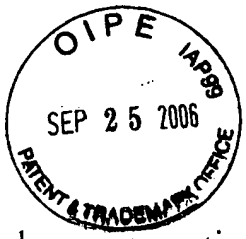
RESPONSE TO DECISION ON PETITION TO WITHDRAW FROM RECORD

Attention: David Bucci, Petitions Examiner
Office of Petitions
U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, Virginia 22314
Sir:

In response to the Decision on Petition to Withdraw From Record, attached is a Separate Paper Under 37 C.F.R. 1.32 and copies of the Declaration filed on August 13, 2003 that appoints the attorney(s) and/or agent(s) of record to Customer Number 34610.

It is respectfully requested that the Petition to Withdraw the law firm of Fleshner & Kim, LLP and their attorneys filed on October 4, 2005 be granted. It is respectfully requested that the correspondence address be changed, and that all future correspondence be addressed to:

Mr. Kevin Hoffman
15802 Lautrec Ct.
Gaithersburg, MD 20878



Should the Examiner have any questions regarding the above-identified application, the Examiner is invited to contact **Rene A. Vazquez** at the telephone number listed below.

Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,
FLESHNER & KIM, LLP

Mark L. Fleshner
Registration No. 34,596
Rene A. Vazquez
Registration No. 38,647

Attachments: Decision on Petition to Withdraw From Record
Separate Paper Under 37 C.F.R. 1.32 and Declaration filed 8/13/03

P.O. Box 221200
Chantilly, Virginia 20153-1200
703 766-3701 MLF:jld
Date: September 25, 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

SEP 25 2006
PATENT & TRADEMARK OFFICE

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OFFICE OF PETITIONS

Mark L. Fleshner
P.O. Box 221200
Chantilly, VA 20153-1200

In re Application of :
Kevin Hoffman :
Application No. 10/336,036 : DECISION ON PETITION
Filed: January 13, 2003 : TO WITHDRAW
Attorney Docket No. EFRG-0200 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 4, 2005.

The request is **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 Customer Number 34610 did not appoint the attorney(s) and/or agent(s) of record.

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

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

David Bucci
Petitions Examiner
Office of Petitions

FLESHNER & KIM
AUG 25 2006

cc: Mr. Kevin Hoffman
15802 Lautrec Ct.
Gaithersburg, MD 20878

SEP 25 2006
PATENT & TRADEMARK OFFICE

Docket No.: EFRG-0020 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	Confirmation No.: 7520
Kevin HOFFMAN, Jim ANZALONE and Chris CORMACK	Group Art Unit: **2152**
Serial No.: **10/336,036**	Examiner: **Unknown**
Filed: **January 3, 2003**	Customer No.: **34610**

For: **WEB BASED METHOD AND SYSTEM FOR MANAGING AND TRANSFERRING BUSINESS INFORMATION**

SEPARATE PAPER UNDER 37 C.F.R. 1.32

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

Sir:

In accordance with 37 C.F.R. 1.32 the following attorneys/agent are all registered under Fleshner & Kim, LLP's Customer Number 34610.

Mark L. Fleshner, Registration Number 34,596

Daniel Y.J. Kim, Registration No. 36,186

Carl R. Wesolowski, Registration Number 40,372

John C. Eisenhart, Registration Number 38,128

Carol L. Druzbick, Registration No. 40,287

Rene A. Vazquez, Registration No. 38,647

David C. Oren, Registration Number 38,694

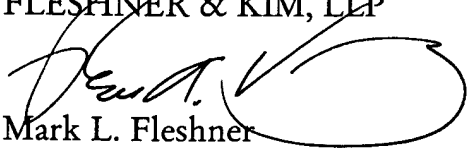
Samuel W. Ntiros, Registration Number 39,318

Joanna K. Mason, Registration No. 56,408

Attached herewith is the Declaration and Power of Attorney filed on August 13, 2003. Any attorneys/agents listed on the Declaration but not listed above are no longer with the firm of Fleshner & Kim, LLP.

It is believe that no fee is due. However, to the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,
FLESHNER & KIM, LLP



Mark L. Fleshner
Registration No. 34,596
Rene A. Vazquez
Registration No. 38,647

P. O. Box 221200
Chantilly, Virginia 20153-1200
(703) 766-3701

Date: September 25, 2006
Please direct all correspondence to Customer Number 34610
Q:\Documents\2124-023\Document in ProLaw

Docket No.: EFRG-0020

DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

My residence, post office and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter claimed and for which a patent is sought on the invention entitled METHOD AND SYSTEM FOR MANAGING AND/OR TRANSFERRING INFORMATION, the specification of which

[ ] is attached hereto [X] was filed on January 3, 2003 as Application Serial No. 10/336,036 and was amended on _____ (if applicable)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is known to me to be material to patentability in accordance with Title 37, Code of Federal Regulations, Section 1.56(a).

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365 (b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s): Number	Country	**Foreign Filing Date** Month/Day/Year

I hereby claim the benefit under 35 U.S.C. 119(e) of any United States provisional application(s) listed below.

Application Number(s):	Filing Date (Month/Day/Year)
60/382,387	May 23, 2002

I hereby claim the benefit under 35 U.S.C. 120 of any United States application(s), or 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of 35 U.S.C. 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

Prior U. S. Application or PCT Parent Number	Filing Date (Month/Day/Year)	Parent Patent Number (if applicable)

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 Section 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.

I Hereby appoint the following attorney(s) and/or agent(s):Daniel Y.J. Kim, Registration No. 36,186 and Mark L. Fleshner, Registration No. 34,596; Carl R. Wesolowski, Registration No. 40,372, John C. Eisenhart, Registration No. 38,128, Carol L. Druzbick, Registration No. 40,287; Anthony H. Nourse, Registration No. 46,121; Laura L. Lee, Registration No. 48,752; Rene A. Vazquez, Registration No. 38,647; Donald R. McPhail, Registration No. 35,811; Timothy M. Speer, Registration No. 47,355; Samuel W. Ntiros, Registration No. 39,318; Mark R. Buscher, Registration No. 35,006; Daniel H. Sherr, Registration No. 46,425; Tyler S. Brown, Registration No. 36,465; and John L. Ciccozzi, Registration No. 48,984, all of

FLESHNER & KIM, LLP
P. O. Box 221200
Chantilly, Virginia 20153-1200

with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith, and all future correspondence should be addressed to them.

****

Full name of sole or first inventor: Kevin HOFFMAN

Inventor's signature: Date:

Mailing Address: 15802 Lautrec Court, Gaithersburg, MD 20878

Citizenship: U.S.A.

Residence Address
(only if different from mailing address):

****

Full name of joint inventor(s): Jim ANZALONE

Inventor's signature: Jim Anzalone Date: 7-16-2003

Mailing Address: 43806 Abbott Place, Ashburn, VA 20147

Citizenship: U.S.A.

Residence Address
(only if different from mailing address):

****

Full name of joint inventor(s): Chris CORMACK

Inventor's signature: Date:

Mailing Address: 43806 Abbott Place, Ashburn, VA 20147

Citizenship: U.S.A.

Residence Address
(only if different from mailing address):

Docket No.: EFRG-0020

DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

My residence, post office and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter claimed and for which a patent is sought on the invention entitled METHOD AND SYSTEM FOR MANAGING AND/OR TRANSFERRING INFORMATION, the specification of which

[ ] is attached hereto [X] was filed on January 3, 2003 as Application Serial No. 10/336,036 and was amended on _____ (if applicable)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is known to me to be material to patentability in accordance with Title 37, Code of Federal Regulations, Section 1.56(a).

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365 (b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s): Number	Country	**Foreign Filing Date** Month/Day/Year

I hereby claim the benefit under 35 U.S.C. 119(e) of any United States provisional application(s) listed below.

Application Number(s):	**Filing Date (Month/Day/Year)**
60/382,387	May 23, 2002

I hereby claim the benefit under 35 U.S.C. 120 of any United States application(s), or 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of 35 U.S.C. 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

Prior U. S. Application or PCT Parent Number	**Filing Date (Month/Day/Year)**	**Parent Patent Number (if applicable)**

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 Section 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.

I hereby appoint the following attorney(s) and agent(s):Daniel Y.J. Kim, Registration No. 36,18(Mark L. Fleshner, Registration No. 34,596; Carl R. Wesolowski, Registration No. 40,372, John C. Eisenhart, Registration No. 38,128, Carol L. Druzbick, Registration No. 40,287; Anthony H. Nourse, Registration No. 46,121; Laura L. Lee, Registration No. 48,752; Rene A. Vazquez, Registration No. 38,647; Donald R. McPhail, Registration No. 35,811; Timothy M. Speer, Registration No. 47,355; Samuel W. Ntiros, Registration No. 39,318; Mark R. Buscher, Registration No. 35,006; Daniel H. Sherr, Registration No. 46,425; Tyler S. Brown, Registration No. 36,465; and John L. Ciccozzi, Registration No. 48,984, all of

FLESHNER & KIM, LLP
P. O. Box 221200
Chantilly, Virginia 20153-1200

with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith, and all future correspondence should be addressed to them.

****

Full name of sole or first inventor: Kevin HOFFMAN

Inventor's signature: Kevin Hoffman Date: 7/16/209

Mailing Address: 15802 Lautrec Court, Gaithersburg, MD 20878

Citizenship: U.S.A.

Residence Address
(only if different from mailing address):

****

Full name of joint inventor(s): Jim ANZALONE

Inventor's signature: Date:

Mailing Address: 43806 Abbott Place, Ashburn, VA 20147

Citizenship: U.S.A.

Residence Address
(only if different from mailing address):

****

Full name of joint inventor(s): Chris CORMACK

Inventor's signature: Date:

Mailing Address: 43806 Abbott Place, Ashburn, VA 20147

Citizenship: U.S.A.

Residence Address
(only if different from mailing address):

Docket No.: EFRG-0020

OIPE IAP99
SEP 25 2006
PATENT & TRADEMARK OFFICE

DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

My residence, post office and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter claimed and for which a patent is sought on the invention entitled METHOD AND SYSTEM FOR MANAGING AND/OR TRANSFERRING INFORMATION, the specification of which

[ ] is attached hereto [X] was filed on January 3, 2003 as Application Serial No. 10/336,036 and was amended on _____ (if applicable)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is known to me to be material to patentability in accordance with Title 37, Code of Federal Regulations, Section 1.56(a).

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365 (b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s): Number	Country	Foreign Filing Date Month/Day/Year

I hereby claim the benefit under 35 U.S.C. 119(e) of any United States provisional application(s) listed below.

Application Number(s):	Filing Date (Month/Day/Year)
60/382,387	May 23, 2002

I hereby claim the benefit under 35 U.S.C. 120 of any United States application(s), or 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of 35 U.S.C. 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

Prior U. S. Application or PCT Parent Number	Filing Date (Month/Day/Year)	Parent Patent Number (if applicable)

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 Section 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.

I hereby appoint the following attorney(s) and/or agent(s):Daniel Y.J. Kim, Registration No. 36,186 and Mark L. Fleshner, Registration No. 34,596; Carl R. Wesolowski, Registration No. 40,372, John C. Eisenhart, Registration No. 38,128, Carol L. Druzbick, Registration No. 40,287; Anthony H. Nourse, Registration No. 46,121; Laura L. Lee, Registration No. 48,752; Rene A. Vazquez, Registration No. 38,647; Donald R. McPhail, Registration No. 35,811; Timothy M. Speer, Registration No. 47,355; Samuel W. Ntiros, Registration No. 39,318; Mark R. Buscher, Registration No. 35,006; Daniel H. Shere, Registration No. 46,425; Tyler S. Brown, Registration No. 36,465; and John L. Ciccozzi, Registration No. 48,984, all of

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Chantilly, Virginia 20153-1200

with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith, and all future correspondence should be addressed to them.

Full name of sole or first inventor: Kevin HOFFMAN

Inventor's signature: Date:

Mailing Address: 15802 Lautrec Court, Gaithersburg, MD 20878

Citizenship: U.S.A.

Residence Address
(only if different from mailing address):

Full name of joint inventor(s): Jim ANZALONE

Inventor's signature: Date:

Mailing Address: 43806 Abbott Place, Ashburn, VA 20147

Citizenship: U.S.A.

Residence Address
(only if different from mailing address):

Full name of joint inventor(s): Chris CORMACK

Inventor's signature: Chris Cormack Date: 8/12/03

Mailing Address: 43806 Abbott Place, Ashburn, VA 20147

Citizenship: U.S.A.

Residence Address
(only if different from mailing address):

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COUCHMAN HARRINGTON ASSOCIATES
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LONDON WC1A -2LQ UNITED KINGDOM

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AUG 0 3 2006

OFFICE OF PETITIONS

In re Application of
Craig Johnston
Application No. 10/336,042
Filed: January 3, 2003
Title of Invention: Article of Footwear for Gripping and Kicking a Ball

ON PETITION

This is a decision on the petition under 37 CFR §1.181, filed June 14, 2006 to withdraw the holding of abandonment.

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

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This above-identified application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office Action of November 5, 2004. The final Office Action set a three (3) month shortened statutory period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application was held abandoned on July 23, 2005. A Notice of Abandonment was mailed May 23, 2006.

Petitioner states a response to the final Office Action was submitted via facsimile on June 15, 2005. In support of petitioner's contention a copy of the reply to the amendment and a fax activity log has been provided.

Petitioner's argument has been considered, but deemed unpersuasive. A review of the

record shows that the original response purportedly submitted on June 15, 2005 has not been located.

Pursuant to 37 CFR 1.8 (a)(1)(ii) correspondence will be considered as timely filed where the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated. The copy of the reply does not contain a certificate of transmission.

37 CFR 1.8 (b) further states in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and **certificate**; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

(c) The Office may require additional evidence to determine if the correspondence was timely filed.

Petitioner has failed to provide a certificate of transmission. The submission of the sending unit's report alone is not sufficient evidence that the correspondence was submitted timely. Accordingly, there is inadequate evidence to withdraw the holding of abandonment.

Petitioner may wish to file a petition to revive under 37 CFR 1.137.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NICK WHITE
COUCHMAN HARRINGTON ASSOCIATES
8 BLOOMSBURY SQUARE
LONDON WC1A -2LQ UNITED KINGDOM

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OFFICE OF PETITIONS

In re Application of
Craig Johnston
Application No. 10/336,042
Filed: January 3, 2003
Title of Invention: Article of Footwear for Gripping and Kicking a Ball

ON PETITION

This is a decision on the petition under 37 CFR §1.181, filed August 22, 2006 to withdraw the holding of abandonment.

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

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This above-identified application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office Action of November 5, 2004. The final Office Action set a three (3) month shortened statutory period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application was held abandoned on July 23, 2005. A Notice of Abandonment was mailed May 23, 2006. A petition under 37 CFR 1.181 was dismissed on August 3, 2006.

Petitioner states a response to the final Office Action was submitted via facsimile on June 15, 2005. In support of petitioner's contention a copy of the reply to the amendment and a fax activity log has been provided. On renewed petition, petitioner has provided a copy of a fax transmission in order to meet the requirements of 37 CFR 1.8.

Pursuant to 37 CFR 1.8 (a)(1)(ii) correspondence will be considered as timely filed where the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated. The copy of the reply does not contain a certificate of transmission.

The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

on _____.

(Date)

Typed or printed name of person signing this certificate:

_____

Signature: _____

Registration Number: _____

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (___)_____ -_____ on _____. (Date)

Typed or printed name of person signing this certificate:

_____

Signature: _____

Registration Number: _____

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

While the above format of a certificate of transmission is a suggestion, the certification requires a signature. Specifically, if the certification appears on a paper that requires a signature, two signatures are required, one for the paper and one for the certification. See MPEP 512.

Petitioner has failed to provide a certificate of transmission. The documented submitted on renewed petition does not contain a certificate of transmission within the meaning of 37 CFR 1.8. Accordingly, there is inadequate evidence to withdraw the holding of abandonment.

Petitioner may wish to file a petition to revive under 37 CFR 1.137(b).

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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LONDON WC1A -2LQ UNITED KINGDOM

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JAN 22 2007

OFFICE OF PETITIONS

In re Application of
Craig Johnston
Application No. 10/336,042
Filed: January 3, 2003
Title of Invention: Article of Footwear for Gripping and Kicking a Ball

ON PETITION

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

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

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This above-identified application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office Action of November 5, 2004. The final Office Action set a three (3) month shortened statutory period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application was held abandoned on July 23, 2005. A Notice of Abandonment was mailed May 23, 2006. A petitions under 37 CFR 1.181 were dismissed on August 3, 2006 and November 9, 2006.

Petitioner states a response to the final Office Action was submitted via facsimile on June 15, 2005. In support of petitioner's contention a copy of the reply to the amendment and a fax activity log has been provided. On renewed petition, petitioner has provided a copy of a fax transmission which contains a statement pursuant to 37 CFR 1.8.

Pursuant to 37 CFR 1.8 (a)(1)(ii) correspondence will be considered as timely filed where the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated. The copy of the reply does not contain a certificate of transmission.

The previous decision indicated that the reply would not be deemed timely because it did not include a proper statement pursuant to 37 CFR 1.8. It appears that petitioner has added a statement pursuant to 37 CFR 1.8 after the fact. It is not appropriate for petitioner to add a 1.8 statement. The original reply did not contain a certificate of mailing and thus the holding of abandonment will not be withdrawn.

After decision on the petition for reconsideration, no further reconsideration or review of the matter under 37 CFR 1.181 will be undertaken by the Director. Accordingly, on request for reconsideration, it is extremely important the petitioner supply **any** and **all** relevant information and documentation in order to meet his burden of showing

Alternative Venue

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR § 1.137(b) must be accompanied by the required reply, the required petition fee, and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR § 1.137(b) was unintentional.

The filing of a petition under 37 CFR § 1.137(b) cannot be intentionally delayed, and therefore, must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR § 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR § 1.137(b).

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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COUCHMAN HARRINGTON ASSOCIATES
8 BLOOMSBURY SQUARE
LONDON WC1A -2LQ GB UNITED KINGDOM

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OFFICE OF PETITIONS
ON PETITION

In re Application of
Craig Johnston
Application No. 10/336,042
Filed: January 3, 2003

Title of Invention: Article of Footwear for Gripping and Kicking a Ball

This is a decision on the petition under 37 CFR §1.137(b), filed April 30, 2007.

This petition is hereby **Dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. 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.

This above-identified application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office Action of November 5, 2004. The final Office Action set a three (3) month shortened statutory period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application was held abandoned on July 23, 2005. A Notice of Abandonment was mailed May 23, 2006. Petitions under 37 CFR 1.181 were dismissed on August 3, 2006, November 9, 2006 and January 22, 2007.

The merits of the petition have **not** been reviewed. The payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application. The current petition fee for small entity is $750.00. It is noted that a credit card form was submitted on May 4, 2007. However, the Office was unable to process the payment.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

GK

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

STEVEN B. MICHLIN
6771 Cottonwood Knoll
West Bloomfield, MI 48322

OCT 6 2005

In re Application of:
MICHLIN *et al.*
Serial No.: 10/336,071
Filed: June 11, 2003
For: **A TEAR-STRIP SEAL AND TEAR-SEAL ASSEMBLY USING A PRE-CUT TEAR INITIALIZATION AND A TONER HOPPER, TONER CARTRIDGE AND IMAGE FORMING APPARATUS USING SAME AND METHOD OF MANUFACTURING SAME SEAL, TONER HOPPER AND TONER CARTRIDGE ASSEMBLY**

NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR § 1.313

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR § 1.313.

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed May 15, 2005, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner in the next Office action.

Upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that any previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund, or a credit to a Deposit Account.

Telephone inquires should be directed to Arthur T. Grimley at (571) 272-2136.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Arthur T. Grimley, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 6

JOHN S. MUNDAY, ESQ.
LAW OFFICES OF JOHN S. MUNDAY
PO BOX 423
ISANTI, MN 55040

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FEB 26 2004

OFFICE OF PETITIONS

In re Application of :
Ibsen :
Application No. 10/336,077 : ON PETITION
Filed: January 3, 2003 :
Attorney Docket No. 120114 :

This decision concerns the petition under 37 CFR 1.137(b), filed on February 10, 2004, to revive the above-referenced application.

The petition is **GRANTED.**

The application, upon filing, was accompanied by a $740 check for paying the $750 basic filing fee for this application.

On February 25, 2003, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, setting forth an extendable 2-month period for submitting the $10 deficiency and the $130 surcharge for late payment of the application basic filing fee.

No response was received on or before September 25, 2003, and no extension of time under 37 CFR 1.136(a) was obtained. The application became abandoned on April 26, 2003. The instant petition seeks to revive the application under 37 CFR 1.137(b).

A grantable petition under 37 CFR 1.137(b), in the instant case, must be accompanied by: (1) the required reply to the Office action, unless previously filed; (2) the $1,330 petition fee; and (3) a statement that the entire delay in filing the required reply from its due date until the filing of a grantable §1.137(b) petition was unintentional.

The instant petition meets the above requirements and is thus granted.

The application file is being forwarded to Technology Center 3700 for examination in due course.

Telephone inquiries on this decision 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
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Michael L. Leetzow, Esq.
Michael L. Leetzow, P.A.
5213 SHORELINE CIRCLE
SANFORD FL 32771

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FEB 28 2005

OFFICE OF PETITIONS

In re Application of
Brown et al
Application No.10/336,078
Filed: January 3, 2003
Attorney Docket Number: USCO-009
Title of Invention: Fiber Optic Guide Pin

ON PETITION

This is a decision on the petition filed January 10, 2005, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed September 27, 2004. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on December 28, 2004. This decision precedes the mailing of a Notice of Abandonment.

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

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6886988	2005-05-03	10336078	2003-01-03	USCO-0009

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michael L. Leetzow/	Date (YYYY-MM-DD)	2009-06-22
Name	Michael L. Leetzow	Registration Number	35932

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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United States Patent and Trademark Office
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www.uspto.gov

In re Patent No. 6886988
Issue Date: May 3,2005
Application No. 10336078
Filed: January 3,2003
Attorney Docket No. USCO-0009

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

This is a decision on the electronic petition, filed June 22,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 22,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Dec. 28, 2005

TO SPE OF : ART UNIT 3672 (*David Bagnell*)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,845,814

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.

Your denial or approval decision is needed below.

sp STACY POWELL

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390-x120

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

Note your decision on the appropriate box.

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

Comments:

DAVID BAGNELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE 3672 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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AUG 2 6 2005

OFFICE OF PETITIONS

In re Application of :
Boris Reydel :
Application No. 10/336,107 : ON PETITION
Filed: January 3, 2003 :
Attorney Docket No. 10000-129 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on July 14, 2005, to accept an unintentionally delayed claim under 35 USC 120 for the benefit of prior- filled nonprovisional Application 09/184,331 filed November 2, 1998.

The petition is **GRANTED**.

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed application is submitted after expiration of the period specified in 37 CFR§ 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR §1.78(a)(3).

37 CFR § 1.78 (a) (3) requires a statement that the entire delay between the date the claim was due under 37 CFR §1.78 (a) (2) (ii) and the date the claim was filed was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR §1.78 (a)(3), the statement contained in the instant petition is being construed as the required statement.

The petition complies with the requirements for a grantable petition under 37 CFR §1.78(a)(3) in that (1) a reference to the above-noted, prior-filed application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains an adequate statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed application satisfies the conditions of 37 CFR §1.78(a)(3) the petition is granted.

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

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

Any inquiries concerning this decision may be directed to Charlema R. Grant at (571) 272-3215. 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 Art Unit 2645 for consideration of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 and 37 CFR 1.78(a)(3) to the above-noted, prior filed application.

Frances Hicks
Petitions Examiner
Office of Petition

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Paper No. 7

PPG Industries, Inc.
One PPG Place
Pittsburgh PA 15272

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MAY 2 9 2003

OFFICE OF PETITIONS

In re Application of	:	
Vidhu J. Nagpal	:	
Application No. 10/336,118	:	DECISION ON PETITION
Filed: January 3, 2003	:	
Attorney Docket No.: 1561P1	:	
Title: POLYMERIZABLE POLYOL (ALLYL CARBONATE) COMPOSITIONS	:	

This is a decision on the petition filed April 25, 2003, requesting that application number 10/336,118 be accorded a filing date of January 3, 2003.

The application was deposited on January 3, 2003 without drawings. On March 10, 2003, the Office of Initial Patent Examination (OIPE) mailed a Notice of Incomplete Nonprovisional Application (Notice), stating that a filing date had not been accorded, and that a Filing Date would be accorded upon the deposit of drawings. The Notice further indicated that an executed oath or declaration would be required.

In response, on April 25, 2003, applicants filed the present petition, as well as a declaration executed by the inventor. On April 8, 2003, petitioner submitted one drawing sheet, containing Figure 1. Applicants request that the application be accorded a filing date of January 3, 2003.

It is noted that the petitioner has stated that the Figure was not necessary for an understanding of the claimed invention, but

he has not stated that that no new matter is being supplied with the filing of the drawing sheet.

It is noted that the claims of the present application are directed towards a composition. MPEP 608.02 states, in part:

> An OIPE formality examiner should not treat an application without drawings as incomplete if drawings are not required. A drawing is not required for a filing date under 35 U.S.C. 111 and 113 if the application contains:
>
> (A) at least one process claim including the term "process" or "method" in its introductory phrase;
>
> (B) at least one composition claim including the term composition," "compound," "mixture" or "pharmaceutical" in its introductory phrase;
>
> (C) at least one claim directed to a coated article or product or to an article or product made from a particular material or composition (i.e., an article of known and conventional character (e.g., a table), coated with or made of a particular composition (e.g., a specified polymer such as polyvinyl-chloride));
>
> (D) at least one claim directed to a laminated article or product (i.e., a laminated article of known and conventional character (e.g., a table)); or
>
> (E) at least one claim directed to an article, apparatus, or system where the sole distinguishing feature is the presence of a particular material (e.g., a hydraulic system using a particular hydraulic fluid, or a conventional packaged suture using a particular material).
>
> For a more complete explanation about when a drawing is required, see MPEP 601.01(f). For applications submitted without all of the drawings described in the specification, see MPEP § 601.01(g). If an examiner determines that a filing date should not have been granted in an application because it does not contain drawings, the matter should be brought to the attention of the supervisory patent examiner (SPE) for review. If the SPE decides that drawings are required to understand the subject matter of the invention, the SPE should return the application to OIPE with a typed, signed, and dated memorandum requesting cancellation of the filing date and identifying the subject matter required to be illustrated.

Pursuant to this section of the MPEP, it has been PTO practice to treat an application that contains at least one composition claim as an application for which a drawing is not necessary for an understanding of the invention under the first sentence of 35 U.S.C. §113. A review of the record reveals that there is at least one claim directed towards a composition. Therefore, the present application is deemed to be of the variety which does not require a drawing for an understanding of the invention. Accordingly, the application, as originally filed, is entitled to a filing date of January 3, 2003.

Accordingly, the petition is **GRANTED.**

The Notice, mailed on March 10, 2003, was sent in error, and is hereby **VACATED.**

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of January 3, 2003, using the application papers filed on January 3, 2003, and the drawing sheet containing Figure 1 which was filed on April 8, 2003.

This drawing sheet submitted on April 8, 2003, will, of course, be reviewed by the examiner for new matter[1]. The drawing is not new matter if the substance was a part of the disclosure of the specification submitted on filing. If it is determined that the drawing contains new matter, petitioner might have to amend the portion of the specification which refers to "Figure 1".

Any inquiries related to this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

Beverly Flanagan
Supervisory Petitions
Examiner
Office of Petitions
United States Patent and
Trademark Office

1 See MPEP 608.02(a).

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Paper No. 6

DOYLE B. JOHNSON
REED SMITH CROSBY HEAFEY
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SAN FRANCISCO CA 94120-7936

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SEP 2 9 2003

OFFICE OF PETITIONS

In re Application of
Kevin John Channer
Application No. 10/336,139
Filed: 3 January, 2003
Atty Docket No. 354615.00500

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)
: AND 1.55(c)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on 2 July, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed PCT Application No. PCT/GB01/02920, filed on 29 June, 2001. This is also a decision on the request to add a claim of priority to foreign application No. GB 0016269.3, filed on 4 July, 2000, which is treated as a petition under 37 CFR 1.55(c).

The petition is **GRANTED**.

Petition Under 37 CFR 1.78(a)(3)

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after 29 November, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2). 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) of the prior-filed application, unless previously submitted;[1]

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

(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) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The present pending application was filed on 3 January, 2003, and was copending with the above-noted, prior-filed international application, at the time of filing, for which priority is claimed. A reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, which was filed concurrently with the present petition under 37 CFR 1.78(a)(3).

The present nonprovisional application was filed after 29 November, 2000, and the claim for priority herein is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2). Also, the reference to the prior-filed nonprovisional was submitted during the pendency of the nonprovisional application for which the benefit is sought.[2] Accordingly, having found that the present petition satisfies the conditions of 37 CFR 1.78(a)(3) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120, the petition to accept an unintentionally delayed claim to benefit to prior-filed international Application No. PCT/GB01/02920 is granted as of the date of filing the petition.

The benefit claim has been entered in Office records. A corrected Filing Receipt accompanies this decision.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the

---

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

[2] *See* 35 U.S.C. § 120.

fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

Petitioner is advised that in future filings, any amendment must be filed in a separate paper to avoid confusion.[3]

Petition under 37 CFR 1.55(c)

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date;

(3) the surcharge set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The above-identified pending nonprovisional application was filed on 3 January, 2003, which is after 29 November, 2000, and is a continuation of international Application No. PCT/GB01/02920,

---

[3] See 37 CFR 1.4(c).

filed on 29 June, 2001, which claims priority to British Application No. GB 0016269.3, filed on 4 July, 2000. Application No. PCT/GB01/02920 was filed within 12 months of 4 July, 2000, which is the earliest filing date of the foreign application to which benefit is claimed. The amendment filed on 2 July, 2003, also identifies the foreign application for which priority is claimed. Pursuant to petitioner's authorization, the $1,300.00 surcharge has been paid. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition is **granted**.

The foreign priority claim has been entered in Office PALM records. A corrected Filing Receipt is enclosed which includes the foreign priority claims and projected publication date for the above-identified application.

The application is being forwarded to Technology Center 1700 for processing the amendment embodied in the petition filed on 2 July, 2003, and for consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(3) for the benefit of the above-noted, prior-filed international application and for consideration of the foreign priority claim under 35 U.S.C. § 119 and 37 CFR 1.55(c).

Telephone inquiries related to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at 703-308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Encl: Corrected Filing Receipt

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IP GROUP OF DLA PIPER RUDNICK
GRAY CARY US LLP
1650 MARKET ST, SUITE 4900
PHILADELPHIA, PA 19103

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APR 2 8 2005

OFFICE OF PETITIONS

In re Application of :
Bin Li et al :
Application No. 10/336,156 : ON PETITION
Filed: January 3, 2003 :
Attorney Docket No. 1000-03 :

This is a decision on the petition under 37 CFR 1.182, filed March 17, 2005, to correct the spelling of Inventor Bing Li to Bin Li.

The petition is **GRANTED.**

A "Substitute Combined Declaration, Power of Attorney and Petition" was filed with petition on March 17, 2005 listing Bin Li as the correct spelling of the first inventor's name for the above-identified application.

Any question concerning this decision on petition should be directed to Irvin Dingle at (571) 272-3210.

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

Attachment: Corrected Filing Receipt

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Mailed 10/15/04

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Paper No.

In re Application of
Neah Power Systems, Inc
Serial No. 10/336,162
Filed: August 29, 2002
For: POROUS FUEL CELL ELECTRODE STRUCTURES HAVING CONFORMAL ELECTRICALLY CODUCTIVE LAYERS THEREON

DECISION
ON
PETITION
UNDER 708.02 (V)

This is a decision on the petition filed on July 23, 2004, requesting that the above-identified application be granted Special Status under Sections 37 C.F.R. 1.102 and MPEP 708.02 V.

The petition has been considered and found to comply with the requirements set forth under the above noted sections.

Accordingly, the petition is **GRANTED**.

William Krynski, Special Program Examiner
Technology Center 1700
Chemical and Materials Engineering

Thomas E. Loop
P.O. Box 58888
Seattle, WA 98138-1888

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P O BOX 21466
SEATTLE, WA 98111

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OFFICE OF PETITIONS

In re Application of :
Chung M. Chan :
Application No. 10/336,162 : DECISION GRANTING PETITION
Filed: January 3, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 690089.403 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 11, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 9, 2006, as required by the Notice of Allowance and Fee(s) Due mailed October 7, 2005. A Notice of Abandonment was mailed on May 1, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue and publication fees ($700 and $300, respectively); (2) the $750 petition fee; and (3) the required statement of unintentional delay have been received. 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) 272-3218.

The application file is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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CONLEY ROSE, P.C.
DAVID A. ROSE
P. O. BOX 3267
HOUSTON TX 77253-3267

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JUL 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Thompson, James	:	DECISION ON PETITION
Application No. 10/336,173	:	TO WITHDRAW
Filed: January 3, 2003	:	FROM RECORD
Attorney Docket No. 2160-00100	:	

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 2, 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 Jonathan M. Harris on behalf of all attorneys/agents of record who are associated with Customer Number 23505.

All attorneys/agents associated with Customer Number 23505 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first-named inventor, James R. Thompson, at the address indicated below.

The application is currently under examination in Technology Center AU 3693.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: JAMES R. THOMPSON
7602 WILTON PARK DRIVE
SPRING, TX 77379

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COMMISSIONER FOR PATENTS
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Paper No. 4

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121 S. W. Salmon Street
Portland, OR 97204

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APR 0 2 2003

OFFICE OF PETITIONS

In re Application of :
Berkowitz et al. :
Application No. 10/336,174 : ON PETITION
Filed: January 2, 2003 :
Attorney Docket No. 3382-64317 :

This is a decision on the petition filed March 17, 2003, to accord the above-identified application a filing date of January 2, 2003, instead of January 3, 2003.

The petition is **granted**.

37 CFR 1.10(c) states,

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

All of the above requirements have been met. Therefore, the application will be accorded a filing date of January 2, 2003.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of January 2, 2003.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 3

Fernandez & Associates, LLP
P.O. Box D
Menlo Park, CA 94026-6402

JUN 30 2003

In re Application of	:	
Jan Mink et al.	:	
Application No. 10/336,182	:	DECISION ON REQUEST TO
Filed: January 3, 2003	:	WITHDRAW FROM RECORD
For: METHOD AND SYSTEM	:	
FOR OPTICAL PACKAGING	:	

This is a decision on the request filed by Dennis Fernandez to withdraw as attorney/agent of record pursuant to 37 C.F.R. § 1.36 filed on May 5, 2003. Mr. Fernandez signed on behalf of all the attorneys/agents of record in this application.

The request is **APPROVED** for the withdrawal of all of the attorneys/agents presently of record. The withdrawal is effective as of the date of this letter not when the request for withdrawal was filed.

The application currently has no attorney/agent of record.

As requested, all future communications from the Office will be directed to Eric L. Maschoff at the address provided below unless otherwise notified by applicant.

All inquiries relating to this decision should be directed to Edward Westin at (703) 308-4823.

Edward Westin

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

cc: Eric L. Maschoff
Workman, Nydegger & Seeby
60 E. South Temple, Suite 1000
Salt Lake City, UT 84111

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DAVID L. DAVIS, ESQ.
90 WASHINGTON VALLEY ROAD
BEDMINSTER, NJ 07921

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MAR 0 2 2007

OFFICE OF PETITIONS

In re Application of :
Meng-Tsung Chen :
Application No. 10/336,198 : DECISION ON PETITION
Filed: January 2, 2003 :
Attorney Docket No. LIFEGEAR 3.0-004 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 13, 2006, to revive the above-identified application.

The petition is **GRANTED**.

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

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 September 15, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (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 December 16, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3673 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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FOLEY HOAG, LLP
PATENT GROUP (w/ISA)
155 SEAPORT BLVD.
BOSTON, MA 02210-2600

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MAR 31 2008

In re Application of :

GUAN, Zhumin et al. :
Application No. 10/336,203 : DECISION ON PETITION
Filed: January 04, 2003 : TO WITHDRAW
Attorney Docket No. **ISA-133.01** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 14, 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 Beth E. Arnold on behalf of all attorneys of record who are associated with customer No. 63767. 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 the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **ZHUMIN GUAN**
WUHUAXIAOQU 20-2-301
HANGZHOU, PEOPLE'S REPUBLIC OF CHINA

cc: **KAREN K. WONG, PH.D., ESQ.**
WILSON SONSINI GOODRICH & ROSATI, P.C.
650 PAGE MILL ROAD
PALO ALTO, CA 94304

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FOLEY HOAG, LLP
155 SEAPORT BLVD - PATENT GROUP (W/ISA)
BOSTON, MA 02210-2600

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AUG 0 1 2008

OFFICE OF PETITIONS

In re Application of :
RAMSEY, et al. :
Application No. 10/336,204 : DECISION ON PETITION
Filed: January 4, 2003 : TO WITHDRAW
Attorney Docket No. **32209-731.201** : 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 14, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **FOLEY HOAG, LLP** has been revoked by the assignee of the patent application on April 1, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **WILSON SONSINI GOODRICH & ROSATI**
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

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JJGJR.: 02-06

Paper No: __

KARL M. STEINS
STEINS & ASSOCIATES
SUITE 120
2333 CAMINO DEL RIO SOUTH
SAN DIEGO CA 92108

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OFFICE OF PETITIONS

In re Application of	:	
Espinosa	:	
Application No. 10/336,206	:	DECISION ON PETITION
Filing Date: 3 January, 2003	:	
Attorney Docket No. ESP1-G14	:	

This is a decision on the petition filed on 16 September, 2005, to revive the instant application 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 24 February, 2005, with reply due absent extension of time on or before Monday, 24 May, 2005;

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

- Petitioner filed an after-final amendment (cancelling the non-allowed claims)–which amendment the Examiner has indicated that he will enter–with the instant petition, and

fee, in reply to the final Office action,[1] and has made the statement of unintentional delay

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[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]))

---

[1] The proper response to the final Office action (see: MPEP 711.03(c)) must be in the form of: (a) an amendment *prima facie* placing the application in condition for allowance; (b) a Notice of Appeal; or (c) a Request for Continued Examination (RCE) (with fee and submission) under 37 C.F.R. §1.114.

[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

A grantable petition under 37 C.F.R. §1.137(b) requires a petition, fee, statement of unintentional delay, reply, and a terminal disclaimer and fee if appropriate.

As indicated above, Petitioner has provided a petition, fee, reply and statement as required by regulation.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center 3700 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

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

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OFFICE OF PETITIONS

Cooley Godward, LLP
3000 El Camino Real
5 Palo Alto Square
Palo Alto, CA 94306

In re Application of :

Dipanshu Sharma et al. :
Application No. 10/336,218 : DECISION ON PETITION
Filed: January 3, 2003 : TO WITHDRAW
Attorney Docket No. VENA-002/01US : FROM RECORD
(220407-2004) :

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 11, 2006.

The request is **APPROVED**.

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

The request was signed by William S. Galliani on behalf of all attorneys of record who are associated with Customer No. 23419.

All attorneys/agents associated with the Customer No. 23419 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed May 25, 2006 that requires a reply from the applicant.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: **Dipanshu Sharma**
3956 Armstrong Street
San Diego, CA 942111

cc: **Scott C. Harris**
Fish & Richardson P.C.
4350 La Jolla Village, Suite 500
San Diego, CA 92122

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OFFICE OF PETITIONS

Cooley Godward LLP
3000 El Camino Real
5 Palo Alto Square
Palo Alto, CA 94306

In re Application of	:	
Dipanshu Sharma et al.	:	
Application No. 10/336,218	:	DECISION ON PETITION
Filed: January 3, 2003	:	TO WITHDRAW
Attorney Docket No. VENA-002/01US (220407-2004)	:	FROM RECORD

The Decision on Petition to Withdraw From Record mailed September 21, 2006 is herby **VACATED** in lieu of the Power of Attorney filed July 13, 2006.

The attorneys and/or agent associated with Customer Number 23419 remain the practitioners of record.

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

Terri Williams
for

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Dipanshu Sharma**
3956 Armstrong Street
San Diego, CA 94211

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DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
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SUITE 3400
SAN FRANCISCO CA 94111-4187

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AUG 24 2005

OFFICE OF PETITIONS

In re Application of	:	
Yu, et al.	:	
Application No. 10/336,225	:	DECISION ON PETITION
Filed: January 2, 2003	:	
Attorney Docket No.	:	
A-70476-4/RFT/RMS/RMK	:	

This is a decision on the petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6), filed August 19, 2004, to accept an unintentionally delayed claim under 35 U.S.C. 119(e) and 35 U.S.C. 120 for the benefit of priority to nonprovisional application nos. 10/116,726 and 09/626,096, and provisional application no. 60/281,276.

This petition is **DISMISSED AS MOOT**.

A petition under 37 CFR 1.78(a)(3) and 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)(2)(ii) and 1.78(a)(5)(ii), and must be filed during the pendency of the nonprovisional application. In addition, the petition must accompanied by:

(1) the surcharge as set forth in 37 CFR 1.17(t);

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed as unintentional; and

(3) the reference to the prior filed provisional application, supplied in an application data sheet, or as an amendment in the first sentence of the specification following the title.

The instant nonprovisional application was filed on January 2, 2003, and was pending at the time of filing of the instant petition. The petition is accompanied by an amendment referencing the prior-filed applications.

The filing of the present petition is unnecessary since the Office noted the claim for priority at the time of filing of the instant application. More specifically, the preliminary amendment filed with the application included a reference to the prior-filed nonprovisional applications. Further, a reference to the provisional application was included in the first line of the specification as filed. While petitioner incorrectly stated the relationship of the nonprovisional applications as a "continuing" application rather than as a continuation, divisional or continuation-in-part, the Office nevertheless noted the claim for priority as shown by their inclusion on the Filing Receipt mailed on March 24, 2003.[1]

In view of the above, the petition to accept a late claim for priority is unnecessary and is dismissed as involving a moot issue.

Accordingly, the $1,330 fee submitted for the petition will be refunded to petitioner's deposit account in due course.

This matter is being returned to Technology Center AU 1634 for examination in due course.

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

Frances Hicks
Petitions Examiner
Office of Petitions

[1] Note MPEP 201.11 (III)(D), pages 200-59 and 200-60 (Rev. 2. May 2004) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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LEGAL STAFF, MAIL CODE 482-C23-B21
P.O. BOX 300
DETROIT, MI 48265-3000

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NOV 16 2004

OFFICE OF PETITIONS

In re Application of :
Youssef A. Ghoneim et al :
Application No. 10/336,252 : ON PETITION
Filed: January 3, 2003 :
Attorney Docket No. GP-301919

This is a decision on the petition, filed November 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 September 27, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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 Irvin Dingle at (571) 272-3210.

This matter will be forwarded to Technology Center AU 3661 for processing of the request for

[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).

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

cc:

Davis A. Fox
Cantor Colburn LLP
55 Griffin Road South
Bloomfield, CT 06002

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

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JUL 11 2005

OFFICE OF PETITIONS

In re Application of :
D'Ordine, et al. :
Application No. 10/336,263 :
Filed: January 3, 2003 :
Attorney Docket No. 38-21(52176)B :

ON PETITION

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

A non-final Office action that set a one (1) month period to respond was mailed on March 1, 2005. A response to the Office action and the instant petition were filed on March 29, 2005, within the period for response. As such, the above-identified application is not abandoned and the instant petition is not necessary.

Accordingly, the petition is dismissed as moot.

The petition fee has not been charged.

The file is being forwarded to Technology Center 1600, for review of the "Response To Election/Restriction Requirement," filed March 29, 2005, *in due course*.

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

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

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ATTENTION: G.P. WUELLNER, IP PARALEGAL, (E2NA)
ST. LOUIS, MO 63167

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OFFICE OF PETITIONS

In re Application of :
D'Ordine, et al. :
Application No. 10/336,263 :
Filed: January 3, 2003 :
Attorney Docket No. 38-21(52176)B :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 13, 2005, to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is dismissed.

Any request for reconsideration of this decision must be 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(f)."

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

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

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

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

(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition does not satisfy requirement (2) above.

The petition fee as set forth in 37 CFR 1.17(m) has not been submitted nor has an authorization to charge a deposit account. 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

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

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JAN 3 1 2006

OFFICE OF PETITIONS

In re Application of :
D'Ordine, et al. :
Application No. 10/336,263 : ON PETITION
Filed: January 3, 2003 :
Attorney Docket No. 38-21(52176)B :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 20, 2006, to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is GRANTED.

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

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

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

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

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

The previous Request and Certification under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded.

This application is being returned to Technology Center 1600 for further examination *in due course*.

Any inquiries concerning this decision 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

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APR 22 2004

PAUL AND PAUL
2900 TWO THOUSAND MARKET STREET
PHILADELPHIA PA 19103

In re Application of :
Allan E. Wulc, et al :
Serial No.: 10/336,277 : DECISION ON PETITION
Filed: January 3, 2003 :
For: Surgical Instrument for Endoscopic :
Suturing of Deep Subcutaneous Tissue:

This is in response to applicants' petition filed March 22, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director
Technology Center 3700/2900

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P.O. Box 1450
Alexandria, VA 22313-1450
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Oltman, Flynn & Kubler
Ste. #415
915 Middle River Drive
Fort Lauderdale FL 33304

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JUL 0 3 2007

OFFICE OF PETITIONS

In re Application of :
Marli G. Pinto :
Application No. 10/336,305 : ON PETITION
Filed: 01-06-2003 :
Attorney Docket No. 12861 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 2, 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 January 12, 2006. In the absence of a timely and properly filed reply, the application became abandoned on April 13, 2006. A Notice of Abandonment was mailed on August 10, 2006.

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

This application is being referred to Technology Center AU 3637 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) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 6896510
Issue Date: May 24,2005
Application No. 10336316
Filed: January 3,2003
Attorney Docket No. 271303-1010

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

This is a decision on the electronic petition, filed July 20,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 20,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6896510	2005-05-24	10336316	2003-01-03	271303-1010

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

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

SURCHARGE

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Karen G. Hazzah/	Date (YYYY-MM-DD)	2009-07-20
Name	Karen G. Hazzah	Registration Number	48472

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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OFFICE OF PETITIONS

ON PETITION

In re Application of
John D. Porter et al
Application No. 10/336,356
Filed: January 3, 2003
Attorney Docket No. 2269-4365.3US

This is a decision on the petition, filed December 30, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on August 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 2819 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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ON PETITION

In re Application of :
John D. Porter et al :
Application No. 10/336,357 :
Filed: January 3, 2003 :
Attorney Docket No. 2269-4365.5US (00-0272.5)

This is a decision on the petition, filed December 30, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 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 Irvin Dingle at (571) 272-3210.

This matter will be forwarded to Technology Center AU 2819 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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JAN 07 2005

OFFICE OF PETITIONS

In re Application of :
John D. Porter, et al. :
Application No. 10/336,359 : ON PETITION
Filed: January 3, 2003 :
Attorney Docket No. 2269-4365.6US (00-0272.06/US) :

This is a decision on the petition, filed December 30, 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 14, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2819 for further processing of the request for continued examination under 37 CFR 1.114 filed December 30, 2004.

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

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

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WEYERHAEUSER COMPANY
INTELLECTUAL PROPERTY DEPT., CH 1J27
P.O. BOX 9777
FEDERAL WAY, WA 98063

In re Application of :
Crane, et al. :
Application No. 10/336,366 : ON PETITION
Filed: January 2, 2003 :
Attorney Docket No. WEYE119837/25103

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment filed August 18, 2006.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on January 15, 2006, after an appeal brief was not filed in response to the Notice of Appeal filed November 14, 2005. A Notice of Abandonment was mailed on September September 8, 2005.

A review of the application reveals that a final Office action was mailed on September 8, 2005, allowing a shortened statutory period for reply of three months from its mailing date. On November 14, 2005 (certificate of mailing dated November 8, 2005), applicant filed a Notice of Appeal and "Pre-Appeal Brief Request for Review." On November 28, 2005, a "Notice of Panel Decision from Pre-Appeal Brief Review" was mailed indicating that the "Pre-Appeal Brief Request for Review" was improper because applicant had not provided information requested by the Examiner in a letter date August 6, 2005. The "Notice of Panel Decision from Pre-Appeal Brief Review" indicated that a ". . . decision on the Pre-Appeal Brief request will be held in abeyance until the request is complied with." The record reflects other exchanges between the applicant and the Office, but no decision on the request for pre-appeal brief review. A Notice of Abandonment was mailed on November 14, 2005, indicating that the application was abandoned for failure to respond to the final Office action mailed September 8, 2005.

Guidelines for the Pre-Appeal Brief Conference Pilot Program as provided in the *Official Gazette* of July 12, 2005, indicate in pertinent part, that:

> [t]his program us designed to allow applicants who thin there is a clear deficiency in the *prima facie* case in support of a rejection to file the request at the same time that they file a notice pf appeal. This affords the Office the best opportunity to ensure that applicant will promptly receive a decision on the request. If the request is filed with the notice of appeal, the period of time for filing the brief will be the later of the two-month period set in 37 CFR 41.37(a) or one month from the mail date of the decision on the request.

There is no indication in the application file that applicant received a decision on the request or that applicant filed a response that would cause the review to be terminated. Accordingly, applicant was entitled to await a response from the review panel before filing an Appeal Brief after the Notice of Appeal. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded to Technology Center 1700, GAU 1731 where processing of the application will be held until decision is reached on Pre-Appeal Brief Request.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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MAUREEN D FALWELL
#100
12407 N MOPAC PMB 263
AUSTIN TX 78758

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NOV 29 2007

OFFICE OF PETITIONS

In re Application of :
Maureen Diane Falwell :
Application No. 10/336,370 : ON PETITION
Filed: January 3, 2003 :
Title: Cat Can't Jump-Device for :
Restraining Small Animals from Jumping

This is a decision on the petition to revive under 37 CFR 1.137(b), filed August 16, 2007.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled, "Renewed Petition under 37 CFR 1.137(b)." No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a **proper** response to the final Office action mailed April 1, 2004, which set a shortened statutory period for reply of three (3) months. On June 4, 2004, applicant filed an amendment. However, by Advisory Action mailed July 8, 2004, the examiner informed applicant that the amendment would not be entered because it failed to place the application in condition for allowance. No further proper response having been received, the application became abandoned on July 5, 2004. A courtesy Notice of Abandonment was mailed on November 22, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(m); currently $750, (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition lacks item (2), the required reply. The amendment submitted with the petition does not place the application in condition for allowance.

On renewed petition, petitioner must submit a proper reply in response to the final Office action mailed January 26, 2005. The proposed reply to a final Office action required for consideration of a petition to revive must be either (1) a Notice of Appeal (and fee required by law); (2) the filing of a continuing application under 37 CFR 1.53(b) or if applicable, 1.53(d); or (3) a request for a continuing examination (RCE) under 37 CFR 1.114.

Moreover, the instant petition lacks item (3). As the petition was filed more than two years from the date of abandonment, petitioner must provide the Office with an explanation as to the delay in filing the petition.

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MAUREEN D FALWELL
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AUSTIN TX 78758

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OFFICE OF PETITIONS

In re Application of :
Maureen Diane Falwell :
Application No. 10/336,370 : ON PETITION
Filed: January 3, 2003 :
Title: Cat Can't Jump-Device for :
Restraining Small Animals from Jumping

This is a decision on the renewed petition to revive under 37 CFR 1.137(b), filed January 24, 2008.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled, "Renewed Petition under 37 CFR 1.137(b)." No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a **proper** response to the final Office action mailed April 1, 2004, which set a shortened statutory period for reply of three (3) months. On June 4, 2004, applicant filed an amendment. However, by Advisory Action mailed July 8, 2004, the examiner informed applicant that the amendment would not be entered because it failed to place the application in condition for allowance. No further proper response with an extension of time having been received, the

application became abandoned by operation of law on July 2, 2004.[1] A courtesy Notice of Abandonment was mailed on November 22, 2004. Applicants filed a petition to revive under 37 CFR 1.137(b) on August 16, 2007. However, the petition was dismissed in a decision mailed on November 29, 2007. The decision explained that the amendment submitted with the petition did not place the application in condition for allowance. The decision further pointed out that to revive the application, applicant must submit either (1) a Notice of Appeal (and fee required by law); (2) the filing of a continuing application under 37 CFR 1.53(b) or if applicable, 1.53(d); or (3) a request for a continuing examination (RCE) under 37 CFR 1.114.

With the instant petition, applicant has once again submitted an amendment. As instructed in the November 29, 2007 decision, applicant must submit either (1) a Notice of Appeal (and fee required by law); (2) the filing of a continuing application under 37 CFR 1.53(b) or if applicable, 1.53(d); or (3) a request for a continuing examination (RCE) under 37 CFR 1.114.

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

[1] The last day applicant could have filed a reply, with a three month extension of time, would have been October 1, 2004. However, as no extensions of time were purchased, the application became abandoned by operation of law on July 2, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAUREEN D FALWELL
#100
12407 N MOPAC PMB 263
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JUL 14 2008

In re Application of :
Maureen Diane Falwell :
Application No. 10/336,370 : ON PETITION
Filed: January 3, 2003 :
Title: Cat Can't Jump-Device for :
Restraining Small Animals from Jumping

This is a decision on the renewed petition to revive under 37 CFR 1.137(b), filed June 18, 2008, and supplemented with an RCE on June 23, 2008.

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

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed April 1, 2004, which set a shortened statutory period for reply of three (3) months. On June 4, 2004, applicant filed an amendment. However, by Advisory Action mailed July 8, 2004, the examiner informed applicant that the amendment would not be entered because it failed to place the application in condition for allowance. No further proper response with an extension of time having been received, the application became abandoned by operation of law on July 2, 2004.[1] A courtesy Notice of Abandonment was mailed on November 22, 2004.

[1] The last day applicant could have filed a reply, with a three month extension of time, would have been October 1, 2004. However, as no extensions of time were purchased, the application became abandoned by operation of law on July 2, 2004.

Applicants filed a petition to revive under 37 CFR 1.137(b) on August 16, 2007. However, the petition was dismissed in a decision mailed on November 29, 2007. The decision explained that the amendment submitted with the petition did not place the application in condition for allowance. The decision further pointed out that to revive the application, applicant must submit either (1) a Notice of Appeal (and fee required by law); (2) the filing of a continuing application under 37 CFR 1.53(b) or if applicable, 1.53(d); or (3) a request for a continuing examination (RCE) under 37 CFR 1.114. Applicant filed a renewed petition on January 24, 2008, which was dismissed in a decision mailed on March 19, 2008.

With the instant petition, applicant has submitted a proper reply in the form of an RCE and made a statement of unintentional delay. The petition fee was previously paid on August 16, 2007.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3). The statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The file is being forwarded to Group Art Unit 3643 for consideration of the RCE, filed June 23, 2008.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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P.O. BOX 2550
SALT LAKE CITY UT 84110

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JAN 0 7 2005

OFFICE OF PETITIONS

In re Application of :
John D. Porter et al :
Application No. 10/336,386 : ON PETITION
Filed: January 3, 2003 :
Attorney Docket No. 2269-4365.2US :

This is a decision on the petition, filed December 30, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 30, 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 2819 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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JAN 0 7 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
John D. Porter et al :
Application No. 10/336,387 :
Filed: January 3, 2003 :
Attorney Docket No. 2269-4365.9US (00-0272.9)

This is a decision on the petition, filed December 30, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 30, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter will be forwarded to Technology Center AU 2819 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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GENERAL MILLS, INC.
P.O. BOX 1113
MINNEAPOLIS, MN 55440

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MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of :
Mark E. Arlinghaus, et al. :
Application No. 10/336,400 : ON PETITION
Filed: January 3, 2003 :
Attorney Docket No. P5768US :

This is a decision on the petition under 37 CFR 1.313(c), filed March 7, 2005 to withdraw the above-identified application from issue after payment of the issue fee. The issue fee was paid January 12, 2004.

Petitioner requests that the application be withdrawn from issue for consideration of an Information Disclosure Statement citing references from the International Search Report of the co-pending PCT International application. A copy of the Information Disclosure Statement accompanied the present petition.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;

(2) Consideration of a submission pursuant to 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

See Changes to Application Examination and Provisional Application Practice, Interim Rule, 65 Fed. Reg. 14865, 14873 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47, 54 (Apr. 11, 2000).

The circumstances of this application do not fall within any of the above-noted exceptions. Accordingly, the petition is **DISMISSED**.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204.

The application is being returned to the Office of Patent Publication for further processing.

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

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P.O. BOX 1113
MINNEAPOLIS, MN 55440

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APR 19 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Mark E. Arlinghaus, et al. :
Application No. 10/336,400 :
Filed: January 3, 2003 :
Attorney Docket No. P5768US :

This is a decision on the petition, filed April 18, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 4, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 1761 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

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OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

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JUL 0 3 2006

OFFICE OF PETITIONS

In re Application of
Kataoka et al.
Patent No. 6,929,082
Application Number: 10/336,407
Issue Date : August 16, 2005
Filing Date: January 6, 2003
Attorney Docket Number: 114129

DECISION ON PETITION

This is a decision on the petition for certificate of correction under 37 CFR 1.183 filed on June 19, 2006. The petition is properly treated under 37 CFR 3.81 (b) to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.[1]

The request is **Dismissed**.

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

(A) state the assignment was submitted for recordation as set forth in 37 CFR §3.11 before issuance of the patent;

(B) provide a request for a certificate of correction §1.323;

(C) provide the fee set forth in 37 CFR §1.20 (a) and

(D) provide the processing fee set forth in 37 CFR §1.17(i)

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[1]See 69 Fed. Reg. 29865 (May 26, 2004)

Petitioner has failed to establish (A). Petitioner states the name of one of the assignees "Aishin Seki Kabushiki Kaisha" was incorrectly printed on the patent. The correct name is "*Aisin* Seiki Kabushiki Kaisha". However, the spelling of the assignee's name on the patent agrees with the Office PALM computer database assignment records at the time of the issuance of the patent. Further the correction to the assignment information was not submitted until after the patent issued. Therefore, issuance of a certificate of correction herein is not in order.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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

David W. Highet, VP & Chief IP Counsel
Becton, Dickinson and Company
1 Becton Drive
MC 110
Franklin Lakes, NJ 07417-1880

Mail Date: 06/21/2010

Applicant	: Bruno Franz Mayer	: DECISION ON REQUEST FOR
Patent Number	: 7635357	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/336,412	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/03/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1489** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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AGFA CORPORATION
LAW & PATENT DEPARTMENT
200 BALLARDVALE STREET
WILMINGTON, MA 01887

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OCT 1 4 2004

OFFICE OF PETITIONS

In re Application of :
Ralph Thoma et al :
Application No. 10/336,413 : DECISION GRANTING PETITION
Filed: January 3, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. XP-1094 :

This is a decision on the petition, filed September 7, 2004 (and supplemented on 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 August 2, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2873 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 7

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

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JUN 26 2003

OFFICE OF PETITIONS

In re Application of :
Abraham Karpas :
Application No. 10/336,424 : ON PETITION
Filed: January 3, 2003 :
Attorney Docket No. 1433.003US1 :

This is a decision on the petition filed April 28, 2003, requesting that the above-identified application be accorded a filing date of January 3, 2003, including five (5) sheets of drawings containing Figures 1, 2, 3a, 3b and 4 as described in the specification.

The application was filed on January 3, 2003 as a continuation of PCT/GB01/03059. However, on February 24, 2003, the Office of Initial Patent Application mailed a "Notice of Incomplete Nonprovisional Application" (Notice) that stated the application had not been accorded a filing date, and that the application was deposited without drawings.

In response, on April 28, 2003, the instant petition and five (5) sheets of drawings, containing Figures 1, 2, 3a, 3b and 4 as described in the specification, were submitted. Petitioner states that the drawings were "inadvertently omitted when the continuation application was filed on January 3, 2003." However, petitioner asserts the five (5) sheets of drawings, containing Figures 1, 2, 3a, 3b and 4 as described in the specification, were incorporated by reference by way of the Preliminary Amendment submitted with the application papers on January 3, 2003.[1] Petitioner states further, "These drawings were, however,

[1]The incorporation by reference statement in the preliminary amendment, submitted January 3, 2003, reads: "this application is a continuation under 35 USC 111(a) of PCT/GB01/03059 filed July 9, 2001 and published in English as WO 02/04607 on January 7, 2002, which claims priority from Great Britain

a part of the priority patent application(s), as filed. ... These drawings are from the priority documents. As the prior applications were incorporated by reference, the addition of these drawings to the application does not represent any new subject matter. The GB priority documents are being filed concurrently." The GB priority documents were received by the Office on April 28, 2003.

Based on petitioner's representation that the drawings supplied with the petition is a part of the disclosure of the priority documents, including provisional application no. 60/270,588, and that the entire disclosure of provisional application no. 60/270,588 was specifically incorporated by reference in the present application on January 3, 2003, it appears that the drawings were present in the Office on January 3, 2003, albeit in the file of another application, i.e., provisional application no. 60/270,588. Therefore, on petition, the application may be accorded the requested filing date.

The petition is granted.

Please note, the $130.00 petition fee will not be refunded, since the petition was required to accord the application the requested filing date.

This application will be returned to OIPE for further processing with a filing date of January 3, 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

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application GB 0017139.7 filed on July 12, 2000, and U.S. provisional application 60/270,588 filed February 23, 2001, which applications and publication are incorporated herein by reference."

UNITED STATES PATENT AND TRADEMARK OFFICE

#7

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Corvis Corporation
Intellectual Property Department
7015 Albert Einstein Drive
Columbia, MD 21046-9400

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FROM DIRECTORS OFFICE

SEP 27 2005

TECHNOLOGY CENTER 3600

In re Application of :
Victor P. Amoruso :
Application No. 10/336,434 :
Filed: January 3, 2003 :
For: OPTICAL COMMUNICATION SYSTEM AND COMPONENT CONTROL ARCHITECTURES AND METHODS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the petition to withdrawal the holding of abandonment filed on October 14, 2004 in the United States Patent and Trademark Office.

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

☐ Postcard receipt being dated_____.

☒ USPTO return facsimile receipt dated March 11, 2004 which identifies the application by serial number and the type of Response that was filed on that date.

☐ Certificate of Mailing/Transmission signed on _____. and supported by a statement under 37 C.F.R. 1.8(b)(3).

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

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

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

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

RAR/rwg: 11/23/04

Randolph A. Reese
Special Programs Examiner
Group 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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DAVID H. SITRICK
SITRICK & SITRICK
8340 N. LINCOLN AVE., SUITE 201
SKOKIE, IL 60077

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NOV 1 7 2004

OFFICE OF PETITIONS

In re Application of :
David Sitrick :
Application No. 10/336,447 :
Filed: January 3, 2003 :
Attorney Docket No. STD 1819

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 Irvin Dingle at (571) 272-3210.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

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AUG 0 4 2003

OFFICE OF PETITIONS

In re Application of
Anderson, et al.
Application No. 10/336,472
Filed: January 3, 2003
Attorney Docket No. 21402-533C (CURA 833C)
For: NOVEL PROTEINS AND NUCLEIC ACIDS ENCODING SAME

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

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

The petition is granted.

Petitioners have shown that non-signing inventors, Jason Baumgartner, Steven Spaderna, and Bryan Zerhusen, have constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration/statement of facts of Nicole Carlucci, Administrative Assistant in the Intellectual Property Office of CuraGen Corp., the former employer of the non-signing inventors, establishes that the inventors were mailed the application papers, including the specification, claims and drawings, several times, but the inventors did not claim the packages. A LEXIS search reveals that the packages were mailed to each inventor's current address. 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.

It is noted that petitioner was charged three petition fees. Two $130 petition fees will be credited to deposit account no. 50-0311.

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JASON BAUMGARTNER
1697 QUINNIPIAC AVE.
NEW HAVEN CT 06513

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AUG 0 4 2003

OFFICE OF PETITIONS

In re Application of
Anderson, et al.
Application No. 10/336,472
Filed: January 3, 2003
Attorney Docket No. 21402-533C (CURA 833C)
For: NOVEL PROTEINS AND NUCLEIC ACIDS ENCODING SAME

LETTER

Dear Mr. Baumgartner:

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

UNITED STATES PATENT AND TRADEMARK OFFICE

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BRYAN ZERHUSEN
337 MONTICELLO DRIVE
BRANFORD CT 06405

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OFFICE OF PETITIONS

In re Application of
Anderson, et al.
Application No. 10/336,472
Filed: January 3, 2003
Attorney Docket No. 21402-533C (CURA 833C)
For: NOVEL PROTEINS AND NUCLEIC ACIDS ENCODING SAME

LETTER

Dear Mr. Zerhusen:

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

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

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STEVEN SPADERNA
261 DEERFIELD DRIVE
BERLIN CT 06037

COPY MAILED

AUG 0 4 2003

OFFICE OF PETITIONS

In re Application of :
Anderson, et al. :
Application No. 10/336,472 : LETTER
Filed: January 3, 2003 :
Attorney Docket No. 21402-533C (CURA 833C) :
For: NOVEL PROTEINS AND NUCLEIC ACIDS ENCODING SAME :

Dear Mr. Spaderna:

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

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

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

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TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UTAH 84110-2550

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JAN 0 7 2005

OFFICE OF PETITIONS

In re Application of :
John D. Porter et al :
Application No. 10/336,502 : ON PETITION
Filed: January 3, 2003 :
Attorney Docket No. 2269-4365.1US (00-0272.1)

This is a decision on the petition, filed December 30, 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 6, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter will be forwarded to Technology Center AU 2819 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

United States
Patent And
Trademark Office

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

PETITION DECISION

04/12/04

David R. Preston & Associates, A.P.C.
12625 High Bluff Drive
Suite 205
San Diego, CA 92130

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/336509 received on 03/01/04 by the U. S. Patent and Trademark Office will be included for patent publication.

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

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6837718	2005-01-04	10336510	2003-01-06	063034.0101

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Mark J. Spolyar/	Date (YYYY-MM-DD)	2010-03-09
Name	Mark J. Spolyar	Registration Number	42164

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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In re Patent No. 6837718
Issue Date: January 4,2005
Application No. 10336510
Filed: January 6,2003
Attorney Docket No. TUC920000060US3

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

This is a decision on the electronic petition, filed March 9,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 9,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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BERLINER & ASSOCIATES
555 WEST FIFTH STREET
31ST FLOOR
LOS ANGELES, CA 90013

Mail Date: 04/26/2010

Applicant	: Harry P. Zhabilov	: DECISION ON REQUEST FOR
Patent Number	: 7625565	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/336,512	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/03/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1016** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20050727

DATE : July 28, 2005

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction on Patent No.: 6,806,231

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:

CORRECTS MINOR TYPOGRAPHICAL ERRORS

SPE: Randy Gulakowski **Art Unit** 1712

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 6,806,231

DATED: October 19, 2004

INVENTOR(S): Kevin H. SCHILLING *et al*

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

On the Cover Page, (*) section:
Please Insert --This patent is subject to a Terminal Disclaimer--

In Column 2, Line 38:
Please replace "all" with --alkyl--

In Column 3, Line 56:
Please replace "moles" with --molasses--

In Column 7, Line 10:
Please replace "firer" with --further--

In Column 7, Line 32:
Please replace "Theological" with --rheological--

In Column 7, Line 44:
Please replace "and of" with --and mixtures of--

In Column 10, Line 2:
Please replace "maltodextrin" with --maltrodextrin--

In Column 12, Line 8:
Please replace "+ 2% NaCl(2)" with --+ 2% NaCl(2)--

In Column 14, Lines 13-14:
Please replace "exactions" with --extractions--

In Column 15, Line 36:
Please replace "re" with --referred--

In Column 16, Line 57:
Please replace "sen" with --seen--

Mailing Address of Sender:

Banner & Witcoff, Ltd.
11th Floor
1001 G Street, N.W.
Washington, DC 20001-4597

U.S. PAT. NO 6,806,231

No. of add'l copies
@ $0.50 per page

☐

FORM PTO 1050 (Rev.2-93)

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent No. 6,806,231	)	Serial No. 10/336,540
Inventor(s): Kevin H. SCHILLING *et al*	)	Filed: January 3, 2003
Issue Date: October 19, 2004	)	Attorney Docket No. 06401.00390

For: DRILLING FLUID, APPARATUS, AND METHOD

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CENTRAL FAX CENTER
FEB 22 2005

REQUEST FOR CERTIFICATE OF CORRECTION

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

Sir:

Pursuant to 35 U.S.C. § 254 and 37 C.F.R. § 1.322, this is a request for the issuance of a Certificate of Correction in the above-identified patent. Two (2) copies of PTO Form 1050 are appended. The complete Certificate of Correction involves one page.

The mistakes identified in the appended Form occurred through no fault of the Applicants, as clearly disclosed by the records of the application, which matured into this patent. Enclosed for your convenience are the relevant portions of the Specification, as filed January 3, 2003, as well as the Terminal Disclaimer filed November 26, 2003.

Issuance of the Certificate of Correction containing the corrections is respectfully requested. Since these changes are necessitated through no fault of the Applicants, no fee is believed to be associated with this request. Nonetheless, should the Patent and Trademark Office determine that a fee is required, please charge our Deposit Account No. 19-0733.

Respectfully submitted,

BANNER & WITCOFF, LTD.

Dated: 22 Feb 2005

By: _____
Jeffrey M. Cox
Registration No. 50,695

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

Brown Raysman Millstein Felder & Steiner LLP
900 Third Avenue
New York NY 10022

In re Application of
Ralph D. Masiello, et al.
Application No. 10/336,541
Filed: January 2, 2003
Attorney Docket No. 20629/3A

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed November 20, 2003, under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Steven J. Rocci 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. However, if Mr. Rocci 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 petition is GRANTED.

The instant nonprovisional application is the subject of an application filed in an eighteen month publication country on March 19, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

date of the reply until the filing of a grantable petition was unintentional.

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

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

This application is being forwarded to Technology Center Art Unit 3629 for examination in due course.

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

cc: STEVEN J. ROCCI
WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE -46TH FLOOR
PHILADELPHIA, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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HOWARD B. ROCKMAN
BARNES & THORNBURG
P.O. BOX 2786
CHICAGO, IL 60690-2786

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AUG 1 7 2004

OFFICE OF PETITIONS

In re Application of :
Eugene Kennedy :
Application No. 10/663,541 : ON PETITION
Filed: September 16, 2003 :
Attorney Docket No. 35224-94727 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 6, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-8859.

The application file is being referred to the Office of Patent Publication to oversee review of the drawings filed on July 19, 2004.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

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MAY 25 2004

OFFICE OF PETITIONS

In re Application of :
Masiello et al. :
Application No. 10/336,542 : DECISION GRANTING PETITION
Filed: January 2, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 20629/3B :

This is a decision on the petition, filed March 3, 2004 (originally filed on November 20, 2003 as shown on the postcard receipt), which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on March 19, 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. The above-identified application was publishing on January 8, 2004.

This matter is being forwarded to Technology Center Art Unit 3629 for examination in due course.

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

Liana Chase

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

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

Mail Date: 04/22/2010

Applicant	: Andrew P. Feinberg	: DECISION ON REQUEST FOR
Patent Number	: 7611870	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/336,552	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/03/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **803** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RICK MARTIN
PATENT LAW OFFICES OF RICK MARTIN, PC
416 COFFMAN STREET
LONGMONT CO 80501

COPY MAILED

APR 2 8 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of
Martin, et al.
Application No. 10/336,564
Filed: January 3, 2003
Attorney Docket No. RM393d
For: BACKWARDS RELEASE SKI BINDING

This is a decision on the petition under 37 CFR 1.137(b), filed January 21, 2005 (certificate of mailing date January 18, 2005), to revive the above-identified application.

The above-identified application became abandoned for failure to properly reply to the final Office action of August 17, 2004. Petitioners filed a one month extension of time and amendment after final on December 6, 2004 (certificate of mailing date December 3, 2004) that failed to place the above-identified application in *prima facie* condition for allowance, as was stated in January 5, 2005 Advisory action. The application became abandoned on December 18, 2005. The filing of the instant petition precedes the mailing of a Notice of Abandonment.

Applicants have submitted a reply in the form of a RCE, fee, and amendment, an acceptable statement of the unintentional nature of the delay in responding to the August 17, 2004 final Office action, and the petition fee.

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

Regarding finances, 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 $ 225.00 extension of time submitted with the petition on January 21, 2005 (certificate of mailing date January 18, 2005) 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 A.U. 3618 for further examination.

The Rescission of Previous Nonpublication Request, filed January 21, 2005, has been entered and made of record. Please find enclosed a Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing which sets for this application's projected publication date as August 4, 2005.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

enclosure: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

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Paper No. 4

DIGIMARC CORPORATION
19801 SW 72ND AVENUE
SUITE 100
TUALATIN, OR 97062

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SEP 0 2 2003

OFFICE OF PETITIONS

In re Application of :
Geoffrey Rhoads :
Application No. 10/336,650 : DECISION ON PETITION
Filed: January 2, 2003 :
Attorney Docket No. P0764 :

This is a decision on the "RESPONSE TO NOTICE OF OMITTED ITEMS AND PETITION," filed June 16, 2003, requesting that the Office consider figures 9 and 32 as a part of the original application disclosure.

Application papers in the above-identified application were filed on January 2, 2003. However, on April 10, 2003, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application," advising applicant that the application papers had been accorded a filing date; however, figures 9 and 32 described in the specification appeared to have been omitted from the application.

In response, applicant timely filed the instant petition (and petition fee). Applicant asserts that the application as filed included 28 pages of drawings, including figures 9 and 32. In support thereof, applicant submits a copy of their return postcard from the USPTO. Applicant also supplies copies of figures 9 and 32.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of petitioner's postcard receipt reveals that: 1) it was date stamped as received in the USPTO on January 2, 2003, and the items filed therewith were assigned Application No. 10/336,650; 2) it specifically identifies the items being filed, including "_ 28 sheets of drawings" and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, petitioner has shown that the items denoted, including the 28 sheets of drawings, were filed on January 2, 2003.

The sheets of drawings already considered received in the Office on January 2, 2003, were reviewed along with the drawing sheets containing figures 9 and 32 supplied on petition. These papers together constitute the item described on the postcard receipt as "28 sheets of drawings." It is concluded that petitioner has shown that figures 9 and 32 were among the items present in the application on the date of deposit and should be included in the original application disclosure.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is being refunded to Deposit Account No. 50-1071, as authorized.

The application is being returned to the Office of Initial Patent Examination (OIPE) for:

- processing **with a filing date of January 2, 2003** using the application papers received in the Office and presently accorded that date, and figures 9 and 32 resupplied on petition filed June 16, 2003; and
- indication in Office records that 28 sheets of drawings were present in the application on filing (including figures 9 and 32).

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

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AUG 2 1 2003

OFFICE OF PETITIONS

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

In re Application of
Eller et al.
Application No. 10/336,658
Filed: January 3, 2003
Attorney Docket No. U 014367-0
For: PROCESS FOR PRODUCTION OF WATER-DISPERSABLE FORMULATION CONTAINING CAROTENOIDS

: DECISION REFUSING
: STATUS UNDER
: 37 CFR 1.47(a) AND NOTICE OF
: ABANDONMENT

This is a decision on the petition under 37 CFR 1.47(a), filed July 23, 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.

A grantable petition under 37 CFR 1.47(a) requires

(1) proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refuses to sign after having been presented with the application papers (specification, claims, and drawings),
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

In addition to the above requirements, the signing inventors must sign the declaration on behalf of the non-signing inventor. See MPEP 409.03(a).

The instant petition fails to satisfy (1) and (2).

As to (1), petitioner has not proven that diligent effort has been exerted to locate the non-signing inventor. The only step taken by petitioner which is listed in the petition is sending a copy of the papers to the last known address. Petitioner should take additional steps such as a search of the internet, phone directories, etc. to find the non-signing inventor.

As to (2), an oath or declaration has not been submitted.

In order to expedite consideration, petitioner may wish to submit the renewed petition under 37 CFR 1.47 by facsimile transmission to the telephone number indicated below and to the attention of the undersigned.

Since an oath or declaration has not been submitted in response to the Notice of Missing Parts the application is **abandoned** as of July 21, 2003.[1] Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (an oath or declaration), the required petition fee ($1,300 until October 1, 2003, when the fee may increase), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. In addition to the above requirements, the surcharge of $130 must be paid since the declaration is being filed after the filing date. A copy of a blank petition form is enclosed for petitioner's convenience.

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

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

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

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: PTO/SB/64

---

[1] The patent statute at 35 USC §§ 111(a)(2)(c) and 115 specifically requires an oath or declaration as a statutory requisite of an application for patent. Furthermore, 35 USC 111(a)(3) sets forth that, as was done here, the Commissioner shall give an applicant Notice that his application lacks the statutorily required oath or declaration, and 35 USC 111(a)(4) sets forth that, as here, when applicant receives such notice but does not supply the missing oath or declaration, the application becomes abandoned by operation of the law. Since there is no dispute that the requisite oath or declaration was not supplied within the period set (or extended) under the Notice, then there can be no dispute that this application is properly held abandoned. See 35 USC 114(a)(4).

The mere filing of a petition under 37 CFR 1.47 does not change this result. A petition under 37 CFR 1.47 *likewise requires an oath or declaration as a component of the petition.* See 37 CFR 1.47. Accordingly, the mere filing of the petition under 37 CFR 1.47, in reply to the Notice, was not a proper reply to the Notice. Rather, in the instance where all of the named inventors would not sign the declaration, then the proper reply to the Notice was **both** a petition under 37 CFR 1.47(b) (which promulgates 35 USC 118), and the oath or declaration signed by a person having sufficient proprietary interest by way of an assignment, or an agreement to assign, or other evidence placed in the record. Alternately, in the instance where at least one joint inventor would sign the oath or declaration on behalf of himself and the other inventor, then the proper reply to the Notice was **both** the petition under 37 CFR 1.47(a)(which promulgates 35 USC 116), and the oath or declaration executed by the signing inventor.

Under no circumstances do the patent statutes and regulations permit the applicant to file, or the USPTO to accept, a non-provisional application that ultimately lacks an oath or declaration. Rather, 37 CFR 1.47 simply provides a mechanism whereby a party may obtain USPTO acceptance of an application having a proffered oath or declaration that lacks the signature of every named inventor; it does not trump the requirement of the patent statute and the Notice, for the submission of an oath or declaration in the first place.

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Paper No.8

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

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MAR 0 4 2004

OFFICE OF PETITIONS

In re Application of:
ELLER et al.
Application No. 10/336,658
Filed: January 3, 2003
Docket No. U0143367-0

DECISION ON PETITION

This is a decision on the petition filed September 2, 2003, which is being treated as a petition under 37 CFR 1.181(a)(3) requesting supervisory review of the decision mailed August 21, 2003, from the Office of Petitions, which decided the petition under 37 CFR 1.47 filed July 23, 2003, as supplemented by the petition filed November 17, 2003, which includes a copy of a signed declaration, which later petition is also being treated as a notification of joinder and as such Rule 47 status is no longer being sought

The petition filed September 2, 2003, as supplemented by the petition filed November 17, 2003, both considered under 37 CFR 1.181, are granted to the extent that the previous decision has been reviewed but is **dismissed** as to the requested withdrawal of the decision.

Consideration of the signed declaration filed November 17, 2003 is being held in abeyance until the above-identified abandoned application is restored to pending status by way of a granted petition under 37 CFR 1.137.

In reply to the decision of August 21, 2003, petitioners seek supervisory review therefor and also proffers the first copy of any declaration under 37 CFR 1.63 filed in this application.

WITH RESPECT TO SUPERVISORY REVIEW

Petitioner asserts that the office of Initial Patent Examination (OIPE) should have treated the petition under 37 CFR 1.47 filed July 23, 2003, and cites MPEP 409.03 in support of his contention that the Office of Petitions should not have treated the petition. As such, petitioner seeks withdrawal of the decision of August 21, 2003.

Nevertheless, MPEP 409.03 clearly states that the Office of Petitions and not OIPE has the delegated authority to treat petitions under 37 CFR 1.47:

> Application papers submitted pursuant to 37 CFR 1.47 are forwarded by the Office of Initial Patent Examination (OIPE) to the **Office of Petitions for a determination of whether the papers are proper, complete, and acceptable under 37 CFR 1.47 and for a decision on the petition under 37 CFR 1.47** before the application is sent to the Technology Center. (emphasis added).

Petitioners' attention is further directed to MPEP 1002.02(b), ¶ 22, which specifically recounts that the Office of the Deputy Commissioner of Patents for Patent Examination Policy (DCPEP), has the delegated authority to treat petitions under 37 CFR 1.47. The Office of Petitions is, of course, part of DCPEP; OIPE is **not** part of DCPEP. Petitioner may wish to further note MPEP 1002.02(q) for the limited decisional authority delegated to OIPE; decisions on petitions under 37 CFR 1.47 are clearly **not** listed thereunder.

Petitioners further complain that the decision required additional steps such as searching the internet, which according to petitioners, lacked any basis in law, rules, or practice. Contrary to the petition, a search of the internet was not mandated; but was only suggested and the decision also suggested (at 1) a search of phone directories. In any event petitioners apparently overlook the requirements in 35 U.S.C.. § 116, its promulgating regulation 37 CFR 1.47, and the applicable practice explained in MPEP 409.03(d), which all set forth that it must be shown that the non signing inventor "cannot not be found or reached after diligent effort," as a condition of USPTO acceptance of this or any application whose oath or declaration does not bear the signatures of all the named inventors. In the past, part of the showing of the expenditure of diligent effort was often demonstrated by *e.g.*, a showing that relevant city(s), state(s), regional or national telephone or postal directories, or citizenship registries, had been consulted, which of course is tedious and time consuming. However, with the advent of the internet, it hardly needs pointing out that but a few seconds of searching on the internet will access numerous directories, registries and other people locating databases that could not be manually searched in any reasonable amount of time. While the question is now apparently moot in that all inventors are asserted to have joined, the previous decision correctly determined that the record did not then demonstrate a diligent effort had been expended in attempting to reach or locate the non-signing inventor.

The decision is granted to the extent that the previous decision has been reviewed but is **dismissed** as to withdrawal of the decision of August 21, 2003, which was in fact properly rendered pursuant to delegated authority. The decision of August 21, 2003, stands and will not be withdrawn.

As further correctly noted in the decision of August 21, 2003, the period for reply to the decision continued to run until the submission of the declaration. Petitioners are reminded that the mere filing of the instant petition seeking review of the previous decision did not stay any period for reply that was running against this application, nor act as a stay of other proceedings. See 37 CFR 1.181(f). As such, the holding of **abandonment** in and by the decision of August 21, 2003 is correct. Petitioners had a maximum of 7 months (if the appropriate extension of time fees had been paid along with a request for extension of time) from the mailing of the Notice of Missing Parts of February 20, 2003, or until September 20, 2003, to supply the declaration. While petitioners filed a petition under 37 CFR 1.47 on July 23, 2003, such did not relieve petitioners of their obligation under 37 CFR 1.135(b) to take all action necessary to ensure a complete and proper reply as the nature of the case admitted. It should be noted that 37 CFR 1.47(a) itself requires that the oath or declaration must accompany the petition under 37 CFR 1.47. Since the declaration did not accompany the petition under 37 CFR 1.47, the period for supplying the declaration required by the Notice of Missing Parts was not tolled by the filing of the petition under 37 CFR 1.47 on July 23, 2003. Nor was the period running against this application stayed by the filing of the request for review of the decision of which petitioners complained. See 37 CFR 1.181(f) Since petitioners did not submit the complete and proper reply necessary to save this application from abandonment (i.e., the declaration) within the time period obtained (or obtainable), this application was correctly held abandoned . See 37 CFR 1.135(b).

WITH RESPECT TO THE DECLARATION SIGNED BY ALL INVENTORS

Petitioners note that the allegedly former non signing inventor Morales has now consented to join in the application and includes a copy of a declaration under 37 CFR 1.63.

Unfortunately, as this application is **abandoned,** all USPTO proceedings are considered terminated. Should petitioners wish the USPTO to consider and accept the untimely declaration, then a grantable petition and fee under 37 CFR 1.137 are required.

This **abandoned** application will be retained in the Office of Petitions to await any forthcoming petition under 37 CFR 1.137.

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

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

By hand:[1] 2011 South Clark Place
Crystal Plaza Two, Lobby
Room 1B03
Arlington, VA 22202

By FAX: [2] (703) 872-6906
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to Senior Petitions Examiner Brian Hearn at (703) 305-1820.

Charles Pearson
Director, Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] Effective December 1, 2003, the Office of Petitions can no longer directly receive hand-carried correspondence. The centralized location for hand-carried correspondence is the Customer Window now located at the address given.

[2] Effective December 1, 2003, the Office of Petitions can no longer directly receive facsimile transmissions of correspondence.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 11

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

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FEB 23 2005

OFFICE OF PETITIONS

In re Application of	:	
Thomas Eller et al	:	
Application No. 10/336,658	:	DECISION GRANTING PETITION
Filed: January 3, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. U 014367-0	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 17, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely reply to the Notice of February 20, 2003, which set a two month period for reply. A three month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained on June 23, 2003. Accordingly, the date of abandonment of this application is July 21, 2003.

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 declaration executed by all the inventors; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of February 20, 2003 is accepted as having been unintentionally delayed.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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LEMAIRE PATENT LAW FIRM, P.L.L.C.
P.O. BOX 1818
BURNSVILLE, MN 55337

Mail Date: 04/21/2010

Applicant	: Mark L. Jenson	: DECISION ON REQUEST FOR
Patent Number	: 7603144	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/336,662	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/02/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1838** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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LEMAIRE PATENT LAW FIRM, P.L.L.C.
P.O. BOX 1818
BURNSVILLE, MN 55337

Mail Date: 05/18/2010

Applicant : Mark L. Jenson
Patent Number : 7603144
Issue Date : 10/13/2009
Application No: 10/336,662
Filed : 01/02/2003

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1880** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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IP GROUP
SHAW PITTMAN/BELL SOUTH
CORPORATION
1650 TYSONS BOULEVARD
McLEAN, VA 22102

In re Application of:
Hodges et al.
Application No. 10/336,696
Filed: January 6, 2003
Title of Invention: METHODS FOR IMPROVING BUSINESS DECISIONS

COPY MAILED

JUL 3 1 2003

OFFICE OF PETITIONS

This Decision is in response to a Petition Under 37 C.F.R. 1.47(a), filed May 21, 2003, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventors, John Sess and Jai Menon, refuse to sign the declaration.

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

The application file is being returned to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Jai Menon
1041 Abingdon Lane
Alpharetta, GA 30022

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JUL 31 2003

OFFICE OF PETITIONS

In re Application of:
Hodges et al.
Application No. 10/336,696
Filed: January 6, 2003
Title of Invention: METHODS FOR IMPROVING BUSINESS DECISIONS

LETTER

Dear Mr. Menon:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: IP GROUP
SHAW PITTMAN/BELL SOUTH CORPORATION
1650 TYSONS BOULEVARD
McLEAN, VA 22102

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. CARRION ET AL.
Issue Date: 3/1/05
Appl No.: 10/336,702
Filed: January 03, 2003
For: METHOD OF IDENTIFYING A GENE PRODUCT

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition under 37 CFR 1.48, filed 2/1/05. In view of the fact that the patent has already issued, the request under 37 CFR 1.48 has been treated as a petition to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Irem Yucel, Ph.D.
Supervisory Patent Examiner
Art Unit 1636
Patent Examining Group 1600

REMY YUCEL, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6780

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DATE: March 31, 2005
TO: Certificates of Correction Branch
FROM: Irem Yucel, Ph.D.
SPE, Art Unit 1636
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6,861,229 as specified on the attached Certificate.

REMY YUCEL, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Irem Yucel, Ph.D., SPE
Art Unit 1636

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,861,229
Patented: 3/1/05

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:

Miquel E. Carrión, New Market, MD
Imre Kovesdi, Rockville MD

Irem Yucel, Ph.D.
Supervisory Patent Examiner
Art Unit 1636

REMY YUCEL, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/336,756	01/06/2003	Kouichi Kikuchi	423-66	9467

23117 7590 03/04/2005

NIXON & VANDERHYE, PC
1100 N GLEBE ROAD
8TH FLOOR
ARLINGTON, VA 22201-4714

EXAMINER	
POWERS, FIONA	

ART UNIT	PAPER NUMBER
1626	

DATE MAILED: 03/04/2005

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

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
Alexandria, VA. 22313-1450
WWW.USPTO.GOV

ARC:eaw
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714
(703) 816-4000

ON PETITION
37 CFR 1.48(b)

Date: March 03, 2005
Filed: January 6, 2003
Subject: **Heterocycle Containing Carboxylic Acid Derivative And Drug Containing The Same**

Receipt is acknowledged of the petition filed April 23, 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 Katsuya Tagami, Hiroyuki Yoshimura, Mitsuo Nagai, Shinya Abe, Makota Okita, Takayuki Hida, Seiko Higashi, Naoki Tokuhara and Seiichi Kobayashi.** 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

JOSEPH K. MCKANE
United States Patent and Trademark Office
Technology Center 1600
SPE, ART UNIT 1626
Remsen 5A05
571-272-0699

SPE J. Mckane

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/336,756

Paper No.: _____

DATE : 6/22/05

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 6884808

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:

Joseph K. McKane
JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
~~TECHNOLOGY CENTER 1600~~
SPE

1626
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 05/06/2010

Applicant	: Richard Hans Harvey	: DECISION ON REQUEST FOR
Patent Number	: 7620623	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/336,769	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/06/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080520

DATE : May 20, 2008

TO SPE OF : ART UNIT 2621

SUBJECT : Request for Certificate of Correction on Patent No.: 7277484 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 - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

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

Thank You For Your Assistance — **Certificates of Correction Branch**

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

Note your decision on the appropriated box.

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

Comments:
The Request for Certificate of Correction received on February 5th, 2008 has been approved.

SPE: /Mehrdad Dastouri/ Art Unit 2621

PAGE 2/2 * RCVD AT 5/21/2008 1:00:08 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/12 * DNIS:2709990 * CSID:7033085359 * DURATION (mm-ss):00-58

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/336,779	01/06/2003	Woo-shik Kim	1901.1122	8155

21171 7590 07/01/2008

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER	
RAO, ANAND SHASHIKANT	
ART UNIT	PAPER NUMBER
2621	

MAIL DATE	DELIVERY MODE
07/01/2008	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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080520

DATE : May 20, 2008

TO SPE OF : ART UNIT 2621

SUBJECT : Request for Certificate of Correction on Patent No.: 7277484 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 - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

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

Thank You For Your Assistance **Certificates of Correction Branch**

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

The Request for Certificate of Correction received on February 5th, 2008 has been approved.

SPE: /Mehrdad Dastouri/ Art Unit 2621

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Alexandria, VA 22313-1450
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MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

COPY MAILED

SEP 13 2006

OFFICE OF PETITIONS

In re Application of Miloushev et al. :
Application No. 10/336,784 : Decision on Petitions Under
Filing Date: January 2, 2003 : 37 CFR 1.78(a)(3) and (a)(6)
Attorney Docket No. 60973-0009-US :

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed November 30, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of priority to the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

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

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

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application(s) as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application(s) claiming the benefit of the prior-filed provisional application(s) must have been filed within twelve months of the filing date of the prior-filed provisional application(s).

All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed applications under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

The application is being forwarded to Technology Center Art Unit 2142 for consideration by the examiner of the claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application and the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Francis Hicks
Lead Paralegal
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/336,784	01/02/2003	2142	1295	60973-0009-US	25	59	15

CONFIRMATION NO. 7041

24341
MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

CORRECTED FILING RECEIPT

OC000000020215199

OC000000020215199

Date Mailed: 08/28/2006

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)

Vladimir Miloushev, Dana Point, CA;
Peter Nickolov, Laguna Niguel, CA;

Assignment For Published Patent Application

Z-force Communications, Inc.

Power of Attorney: The patent practitioners associated with Customer Number **24341**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/043,413 01/10/2002
which claims benefit of 60/261,153 01/11/2001

Foreign Applications

If Required, Foreign Filing License Granted: 02/14/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/336,784

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Aggregated opportunistic lock and aggregated implicit lock management for locking aggregated files in a

switched file system

Preliminary Class

709

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO CA 94306

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AUG 0 1 2007

OFFICE OF PETITIONS

In re Application of :

MILOUSHEV, et al. :
Application No. 10/336,784 : DECISION ON PETITION
Filed: January 2, 2003 : TO WITHDRAW
Attorney Docket No. 60973-0009-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 February 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 Gary S. Williams on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: VLADIMIR MILOUSHEV
35 TERRAZA DEL MAR
DANA POINT, CA 92629

cc: JEFFREY T. KLAYMAN, ESQ.
BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON, MA 02110

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Nixon Peabody LLP (F5 PATENTS)
Gunnar G. Leinberg
1100 Clinton Square
Rochester NY 14604

COPY MAILED

APR 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Vladimir Miloushev, et al.	:	
Application No. 10/336,784	:	DECISION GRANTING PETITION
Filed: January 2, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 3193/108	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 28, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 2, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2454 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JUL 19 2010

OFFICE OF PETITIONS

NIXON PEABODY LLP (F5 PATENTS)
GUNNAR G. LEINBERG
1100 CLINTON SQUARE
ROCHESTER NY 14604

In re Application :
Vladimir Miloushev et al. :
Application No. 10/336,784 : DECISION ON APPLICATION
Filed: January 2, 2003 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **812495-010112** :
(3193/108)

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed June 4, 2010. Applicant requests that the determination of patent term adjustment be corrected from 845 to 1371 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Kappos, No. 2009-1120 (Jan. 7, 2010).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the patent term adjustment relating to those provisions until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment

and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

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 two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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

Anthony Knight
Director
Office of Petitions

[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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DEC 10 2007

OFFICE OF PETITIONS

LIU & LIU
444 S. FLOWER STREET, SUITE 1750
LOS ANGELES, CA 90071

In re Application of :
Chuang, et al. : DECISION ON PETITION
Application No. 10/336,822 :
For: January 6, 2003 :
Atty. Dkt. No.: 4504-072 :

This is a decision on the petition under 37 CFR 1.137(a), September 17, 2007, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

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

This application became abandoned September 14, 2005 for failure to timely submit a proper reply to the final Office action mailed June 13, 2005. The final Office action set a three month statutory period of time for reply. Notice of Abandonment was mailed July 26, 2006.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the 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).

The instant petition fails to satisfy requirement (3) set forth above. Petitioners have failed to present 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.

application will not be able to show 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 removal of the language in 37 CFR 1.137(a) requiring that any petition there under be "promptly filed after the applicant is notified of, or otherwise becomes aware of, the abandonment" should not be viewed as: (A) permitting an applicant, upon becoming notified, or otherwise becoming aware, of the abandonment of the application, to delay the filing of a petition under 37 CFR 1.137(a); or (B) changing (or modifying) the result in *In re Application of S*, 8 USPQ2d 1630 (Comm'r Pat. 1988), in which a petition under 37 CFR 1.137(a) was denied due to the applicant's deliberate deferral in filing a petition under 37 CFR 1.137. An applicant who deliberately chooses to delay the filing of a petition under 37 CFR 1.137 (as in *Application of S*, 8 USPQ2d at 1632) will not be able to show 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" or even make an appropriate 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."

Petitioners herein indicate that they became aware that the application was held abandoned due to "routine follow up," but do not set forth when this occurred or detail what steps, if any, were taken thereafter to file a petition to revive. Accordingly, it cannot be found that the entire period of delay, from the time that a reply to the final Office action was due until the filing of a grantable petition, has been unavoidable within the meaning of 37 CFR 1.137(a).

Any renewed petition must establish that the entire period of time from the time that a reply to the Notices was due until the filing of a grantable petition was unavoidable.

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

The Office may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to have been "unavoidable." See, 37 CFR 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

Petitioners allege that a reply to the final Office action was timely filed September 13, 2005 and have submitted a copy of the reply along with a copy of an Auto-Reply Facsimile Transmission dated September 13, 2005. Petitioners further allege that the Notice of Abandonment and Interview Summary, mailed July 26, 2006, were discovered as a result of "routine follow up."

Petitioners are advised that 35 U.S.C. 133 and 151 each require a showing that the "delay" was "unavoidable," which requires not only a showing that the delay which resulted in the abandonment of the application was unavoidable, but also a showing of unavoidable delay until the filing of a petition to revive. *See In re Application of Takao*, 17 USPQ2d 1155 (Comm'r Pat. 1990). The burden of continuing the process of presenting a grantable petition in a timely manner likewise remains with the applicant until the applicant is informed that the petition is granted. *Id.* at 1158. Thus, an applicant seeking to revive an "unavoidably" abandoned application must cause a petition under 37 CFR 1.137(a) to be filed without delay (i.e., promptly upon becoming notified, or otherwise becoming aware, of the abandonment of the application). An applicant who fails to file a petition under 37 CFR 1.137(a) "promptly" upon becoming notified, or otherwise becoming aware, of the abandonment of the

By facsimile: (571) 273-8300

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/336,822	01/06/2003	Meng Ju Chuang	4504-072

CONFIRMATION NO. 5286

POA ACCEPTANCE LETTER

46852
LIU & LIU
444 S. FLOWER STREET, SUITE 1750
LOS ANGELES, CA 90071

Date Mailed: 12/10/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/17/2007.

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

/ambrown/

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

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OFFICE OF PETITIONS

LIU & LIU
444 S. FLOWER STREET, SUITE 1750
LOS ANGELES CA 90071

In re Application of :
Chuang, et al. :
Application No. 10/336,822 : ON PETITION
Filed: January 6, 2003 :
Attorney Docket No. 4504-072 :

This is a decision on the petition renewed under the unintentional provisions of 37 CFR 1.137(b), filed January 14, 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 June 13, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is September 14, 2005. Notice of Abandonment was mailed July 26, 2006. A petition under 37 CFR 1.137(a) was filed September 17, 2007 and dismissed December 10, 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, including required fee and submission, the required petition fee; and a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 3205.

This application is being referred to Technology Center AU 2629 for processing of the request for continued examination and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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BROMBERG & SUNSTEIN LLP
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BOSTON MA 02110-1618

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MAR 15 2007

OFFICE OF PETITIONS

In re Application of :
Miloushev et al. :
Application No. 10/336,832 : ON PETITION
Filed: January 2, 2003 :
Attorney Docket No. 3193/106 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 27, 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.

The Power of Attorney was revoked from the original petitioners on February 14, 2007. While a courtesy copy is being mailed to the firm, which filed the petition, all future correspondence will be directed to the above address unless otherwise indicated by the applicants.

This matter will remain in the Office of Petitions to render a decision on the Petition under 37 CFR 1.78. Thereafter, the matter will be referred to the Technology Center.

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

Liana Walsh
Petitions Examiner
Office of Petitions

Cc:

MORGAN LEWIS BOCKIUS
2 PALO ALTO SQUARE
3000 EL CAMINO REAL, SUITE 700
PALO ALTO, CA 94306

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MAR 15 2007

OFFICE OF PETITIONS

In re Application of :
Miloushev et al. :
Application No. 10/336,832 : DECISION GRANTING PETITION
Filed: January 2, 2003 : UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. 3193/106 : UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 22, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

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

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

The instant application was filed on January 2, 2003, and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

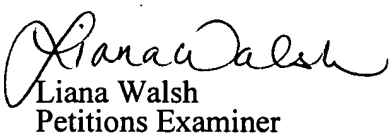
The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. § 120 and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center Art Unit 2144 for appropriate action on the amendment submitted February 22, 2007, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.



Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/336,832	01/02/2003	2144	938	3193/106	52	8

CONFIRMATION NO. 6142
CORRECTED FILING RECEIPT

2101
BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

OC000000022896831
OC000000022896831

Date Mailed: 03/14/2007

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)

Vladimir Miloushev, Dana Point, CA;
Peter Nickolov, Laguna Niguel, CA;

Assignment For Published Patent Application

Z-force Communications, Inc.

Power of Attorney: The patent practitioners associated with Customer Number **02101**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/043,413 01/10/2002
which claims benefit of 60/261,153 01/11/2001

Foreign Applications

If Required, Foreign Filing License Granted: 02/25/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/336,832

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Rule based aggregation of files and transactions in a switched file system

Preliminary Class

709

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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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AUG 0 7 2007

OFFICE OF PETITIONS

In re Application of :
Miloushev et al. :
Application No. 10/336,834 : DECISION GRANTING PETITION
Filed: January 2, 2003 : UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. 3139/107 : UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 22, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the amendment filed November 18, 2005.

The petitions are **GRANTED**.

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

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

The instant application was filed on January 2, 2003 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. §§ 120 and 365(c) and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and 365(c)

and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center Art Unit 2163 for appropriate action on the amendment, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 365(c) and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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	TOT CLMS	IND CLMS
10/336,834	01/02/2003	2163	776	3193/107	34	8

CONFIRMATION NO. 6133

CORRECTED FILING RECEIPT

2101
BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

OC000000025217175

Date Mailed: 08/06/2007

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

Applicant(s)

Vladimir Miloushev, Dana Point, CA;
Peter Nickolov, Laguna Niguel, CA;

Assignment For Published Patent Application

Z-force Communications, Inc.

Power of Attorney: The patent practitioners associated with Customer Number **02101**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/043,413 01/10/2002
which claims benefit of 60/261,153 01/11/2001

Foreign Applications

If Required, Foreign Filing License Granted: 03/06/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/336,834

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Aggregated lock management for locking aggregated files in a switched file system

Preliminary Class

707

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO CA 94306

COPY MAILED

MAY 17 2007

OFFICE OF PETITIONS

In re Application of	:
Miloushev et al.	:
Application No. 10/336,835	: DECISION GRANTING PETITION
Filed: January 2, 2003	: UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. 60973-0006-US	: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 22, 2007, 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 amendment filed November 18, 2005.

The petitions are **GRANTED**.

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

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

The instant application was filed on January 2, 2003, and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. §§ 120 and 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an

unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center Art Unit 2163 for appropriate action on the amendment submitted November 18, 2005, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed application, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/336,835	01/02/2003	2163	704	60973-0006-US	40	5

CONFIRMATION NO. 7438

CORRECTED FILING RECEIPT

OC000000023879703

24341
MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

Date Mailed: 05/15/2007

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)

Vladimir Miloushev, Dana Point, CA;
Peter Nickolov, Laguna Niguel, CA;

Assignment For Published Patent Application

Z-force Communications, Inc.

Power of Attorney: The patent practitioners associated with Customer Number **24341**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/043,413 01/10/2002
which claims benefit of 60/261,153 01/11/2001

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 US10/336,835

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Metadata based file switch and switched file system

Preliminary Class

707

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

GRANTED

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

date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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Paper No. 8

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

COPY MAILED

MAR 17 2004

OFFICE OF PETITIONS

In re Application of Heinz-Dieter Adomeit Application No. 10/336,836 Filed: January 6, 2003 Attorney Docket No. 076326-0243 Title: GAS BAG FOR OCCUPANT PROTECTION DEVICE	DECISION REFUSING STATUS UNDER 37 C.F.R. § 1.47(b)

This is in response to the "PETITION UNDER 37 CFR 1.47(b)," filed March 2, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on January 6, 2003, with an unexecuted declaration, missing the statutory basic filing fee and with additional claim fees due. Heinz-Dieter Adomeit was named as sole inventor. Accordingly, on September 12, 2003, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted (Notice)," requiring an executed oath or declaration, a surcharge for its late filing and the other required fees. This Notice set a two-month period for reply with extensions of time obtainable under § 1.136(a).

In response, rule 47(b) applicant filed the instant petition along with a declaration executed by Falk Ose on behalf of assignee Takata-Petri AG and on behalf of the non-signing inventor; the outstanding filing fees; and the late surcharge under § 1.16(e). This response was made timely by an accompanying petition (and fee) for extension of time for response within the fourth month. Applicant maintains that

status under 37 CFR § 1.47(b) is proper because sole inventor Adomeit has refused to execute the declaration. In support thereof, petitioner submits the declaration of Falk Ose.

§ 1.47(b) provides that:

> Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in § 1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with § 1.63.

The instant petition does not include an adequate showing that inventor Adomeit has refused to join in the application. Before a refusal can be alleged, applicant must demonstrate 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 non-signing inventor. See MPEP 409.03(d). The evidence only supports a conclusion that the combined declaration and power of attorney were sent to inventor Adomeit. 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. 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).

Thus, on renewed petition, applicant must establish that the entire application package, including specification, claims and drawings, was presented to non-signing inventor Adomeit and he subsequently refused to sign. If they have not already been sent, a copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the inventor is represented by counsel, to the address of the non-signing inventor's attorney. Documentary evidence, including copies of the transmittal cover letters and return mail receipts, should be made part of the record.

Furthermore, 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. Thus, on renewed petition, a new statutory declaration of Falk Ose or other proper party, such as the employee who presents the papers, is required.

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

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

By FAX: (703) 872-9306
ATTN: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

By hand: CUSTOMER SERVICE WINDOW
2011 South Clark Place
Crystal Plaza Two Lobby
Arlington, VA 22202

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

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

COPY MAILED

JUN 25 2004

OFFICE OF PETITIONS

In re Application of :
Heinz-Dieter Adomeit :
Application No. 10/336,836 : DECISION ACCORDING STATUS
Filed: January 6, 2003 : UNDER 37 C.F.R. § 1.47(b)
Attorney Docket No. 076326-0243 :
Title: GAS BAG FOR OCCUPANT :
PROTECTION DEVICE :

This is in response to the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR 1.47(b)," filed June 17, 2004.

The petition is **DISMISSED AS MOOT**.

The above-identified application was filed on January 6, 2003, with an unexecuted declaration, missing the statutory basic filing fee and with additional claim fees due. Heinz-Dieter Adomeit was named as sole inventor. In response to the Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted (Notice)" mailed September 12, 2003, on March 2, 2004, rule 47(b) applicant filed the initial petition. By decision mailed March 17, 2004, the petition was dismissed for failure to include an adequate showing that inventor Adomeit refused to join in the application.

On instant request for reconsideration, applicant replied with a declaration executed by previously non-signing inventor Adomeit. This response was made timely by an accompanying petition and fee for extension within the first month. The declaration filed June 17, 2004, has been reviewed and found acceptable.

In view of the joinder of the sole inventor, further consideration under 37 CFR 1.47(b) is not necessary and the petition is considered moot. This application does not have any Rule 1.47(b) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(b).

The application file is being forwarded to Technology Center Art Unit 3611 for examination in due course.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

MAR 14 2007

OFFICE OF PETITIONS

In re Application of
Lalapeth et al.
Application No. 10/336,838
Filed: 01-06-2003
Attorney Docket No. 4062-49

DECISION ON PETITION

This is a decision on the petition filed February 15, 2007, to withdraw the holding of abandonment for the above-identified application.

On January 4, 2006, the Office mailed a final Office action, which set a three-month shortened statutory period for reply. On July 5, 2006, applicants submitted a notice of appeal, an amendment, a request for an extension of time for response within the third month, and the necessary fees. The filing of the notice of appeal set a two-month extendable period from July 5, 2006 (the date of receipt of the notice of appeal), for applicants to submit an appeal brief.[1] On August 28, 2006, the Examiner mailed an Advisory Action, indicating that the amendment of July 5, 2006, did not place the application in condition for allowance. On February 5, 2007, applicants submitted a request for an extension of time for response within the fifth month, a Request for Continued Examination, and the necessary fees. On February 7, 2007, the Office mailed a Notice of Abandonment. On February 15, 2007, applicants filed the present petition.

In the present petition, applicants asserted that the application was not abandoned and requested that the Office withdraw the holding of abandonment. Upon a review of the record, applicants' assertions are correct. On July 5, 2006, applicants submitted a notice of appeal, a request for an extension of time for response within the third month, and the necessary fees. As previously stated, the filing of the notice of appeal set a two-month extendable period from July 5, 2006 (the date of receipt of the notice of appeal), for applicant to submit an appeal brief. Accordingly, applicants were permitted to extend

[1] "Once appellant timely files a notice of appeal in compliance with 37 CFR 41.31, the time period for reply set forth in the last Office action is tolled and is no longer relevant for the time period for filing an appeal brief." MPEP 1205.01

this period for response up to five months under 37 CFR 1.136(a). On February 5, 2007, applicants filed a timely and proper reply in the form of an RCE (and fee) and a request for an extension of time for response within the fifth month.

In view of the above, the petition to withdraw the holding of abandonment is **granted**. The Office has concluded that the Notice of Abandonment was mailed in error and hereby withdraws the holding of abandonment. The application is restored to pending status in view of the fact that a response was timely filed and received in the USPTO on February 5, 2007.

This matter is being referred to Technology Center Art Unit 2144 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 matter may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Larry S. Nixon
NIXON & VANDERHYE, P.C.
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

MAILED

APR 30 2009

TECHNOLOGY CENTER 2100

In re Application of:
LALAPETH, Harish et. al.
Application No. **10/336,838**
Filed: January 06, 2003
Docket No. 4062-49
Title: METHOD FOR PERSISTING SNMP MIB DATA IN FILES

DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the petition filed June 12, 2008 under 37 C.F.R. § 1.181(a) to invoke Supervisory Authority of the Commissioner and require Examiner to withdraw non-final office action mailed March 05, 2008.

This petition is **GRANTED**.

Relevant prosecution history

March 05, 2005	First non-Final Office Action is mailed.
August 25, 2005	Applicant files request for reconsideration in response to first non-final office action.
January 04, 2006	Final office action is mailed in response to applicant's request for reconsideration.
July 05, 2006	After-final arguments are filed in response to final action including a Notice of Appeal.
August 28, 2006	Second after-final arguments are filed in response to final action.
August 28, 2006	Advisory action is mailed in response to after-final arguments filed 7/05/06.

February 05, 2007	RCE is filed including amendments to the claims.
February 07, 2006	Notice of Abandonment for failure to timely respond to action mailed 8/28/08.
February 15, 2007	Petition for review by the office of Petitions for withdraw of erroneous notice of abandonment mailing dated 2/7/06.
March 14, 2007	Petition for withdraw of erroneous notice of abandonment mailing dated 2/7/06 is granted by the office of petitions.
May 16, 2007	Non-final office action in response to RCE filed 2/05/07 was mailed.
November 16, 2007	Applicant files response to non-final office action mailed 5/16/07.
March 05, 2008	Non-final office action in response to applicant's reply filed 11/16/07 is mailed.
March 12, 2008	Applicant files Request for correction of outstanding office action, withdrawal of the outstanding office action and re-issuance of a corrected office action mailed 3/05/08.
June 06, 2008	Notice of Non-compliant Amendment (37 CFR 1.121) was mailed in response to communication filed March 12, 2008
June 12, 2008	Petition for review by the Technology Center (SPRE) was filed. Petition requests withdrawal of the outstanding office action and re-issuance of a corrected office action

Regulations and Procedures

§ 707.05(g) Incorrect Citation of References:

Where an error in citation of a reference is brought to the attention of the Office by applicant, a letter correcting the error, together with a correct copy of the reference, is sent to applicant. See MPEP § 710.06. Where the error is discovered by the examiner, applicant is also notified and the period for reply restarted.

§ 710.06. Situations when reply period is reset or restarted:

Where the citation of a reference is incorrect or an Office action contains some other error that affects applicant's ability to reply to the Office action *and this error is called to the attention of the Office within 1 month of the mail date of the action, the Office will restart the previously set period for reply to run from*

the date the error is corrected, if requested to do so by applicant. If the error is brought to the attention of the Office within the period for reply set in the Office action but more than 1 month after the date of the Office action, the Office will set a new period for reply, if requested to do so by the applicant, to substantially equal the time remaining in the reply period.

Where for any reason it becomes necessary to remail any action (MPEP § 707.13), the action should be correspondingly redated, as it is the remailing date that establishes the beginning of the period for reply.

A *supplementary action* after a rejection explaining the references more explicitly or giving the reasons more fully, even though no further references are cited, *establishes a new date* from which the statutory period runs. If the error in citation or other defective Office action is called to the attention of the Office after the expiration of the period for reply, the period will not be restarted and any appropriate extension fee will be required to render a reply timely. The Office letter correcting the error will note that the time period for reply remains as set forth in the previous Office action.

DECISION

Office action mailed 3/05/08 contained inadequate citation(s) of a reference and was called to the attention of the Office within 1 month of the mail date of the action.

As such, in accordance with the above mentioned regulation(s)/procedure(s), the Office will restart the previously set period for reply. A new office action will be mailed to Applicant and its corresponding mailing date will establish the beginning of the period for reply for Applicant.

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

The office action mailed March 05, 2008 is hereby vacated and a new non-final office action will be mailed. For completeness of the Image File Wrapper (IFW) record the Notice of Non-compliant Amendment (37 CFR 1.121) was mailed June 06, 2008 in response to communication filed March 12, 2008, will be rescanned.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-3902. If attempts to reach the undersigned by telephone are unsuccessful, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.
/bp/

/Beatriz Prieto/
Beatriz Prieto, Quality Assurance Specialist
Technology Center 2400,
Network, Multiplexing, Cable and Security

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.
10/336,838	01/06/2003	Harish Lalapeth	4062-49	7527

23117 7590 04/30/2009

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

EXAMINER	
CHRISTENSEN, SCOTT B	

ART UNIT	PAPER NUMBER
2444	

MAIL DATE	DELIVERY MODE
04/30/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JOHNSON & ASSOCIATES PC
14625 BALTIMORE AVENUE #282
LAUREL, MD 20707

COPY MAILED

SEP 10 2004

OFFICE OF PETITIONS

In re Application of :
Kwo-Jyr Wong et al :
Application No. 10/336,846 : NOTICE
Filed: January 6, 2003 :
Attorney Docket No. JA-GAR235TW/US :

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

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

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

Inquiries related to this communication should be directed to the undersigned at (703) 305-8859.

This file is being referred to Technology Center AU 3662.

Karen Creasy

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:050305

DATE : May 3, 2005

TO SPE OF : ART UNIT 2827

SUBJECT : Request for Certificate of Correction on Patent No.: 6,711,083

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:

No new matter was introduced. The scope and meaning of the claims remain the same as before.

SPE: Hoai Ho **Art Unit** 2827

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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PROSKAUER ROSE LLP
1001 PENNSYLVANIA AVE., N.W.
SUITE 400 SOUTH
WASHINGTON, DC 20004

COPY MAILED

OCT 0 1 2008

OFFICE OF PETITIONS

In re Application of
Anke Klippel-Giese et al
Application No. 10/336,855
Filed: January 6, 2003
Attorney Docket No. 14677-002US

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed July 5, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on September, 2007. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405 and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1635 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

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)
6785634	2004-08-31	10/336,858	2003-01-06	0913.104.US

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

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

SURCHARGE

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

◯ A sole patentee

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

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

◯ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Robert H. Epstein/	Date (YYYY-MM-DD)	2008-10-07
Name	Robert H. Epstein	Registration Number	24353

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6785634
Issue Date: August 31,2004
Application No. 10336858
Filed: January 6,2003
Attorney Docket No. 0913.0025C

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

This is a decision on the electronic petition, filed October 23,2008 ,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 23,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 5

CHAUNCEY JOHNSON
JOHNSON & ASSOCIATES PC
14625 BALTIMORE AVE., #282
LAUREL, MD 20707

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JUN 3 0 2003

OFFICE OF PETITIONS

In re Application of
Huang, et al.
Application No. 10/336,860
Filed: January 6, 2003
Attorney Docket No. JA-GAR247TW/US 24

REQUEST FOR INFORMATION

This is a request for clarification of the "Petition To The Commissioner Under §§ 1.182/1.183," filed April 4, 2003 requesting relief from a "Notice To File Missing Parts Of Nonprovisional Application," mailed by the office on February 25, 2003.

Petitioner requests that Figure 6 be accorded the original filing date of the application, however, petitioner has not put forth an argument or explanation as to why, or under what basis, petitioner believes himself to be entitled to such a decision.

Accordingly, the Commissioner seeks clarification as to the basis or rationale of the relief petitioner is seeking.

Petitioner is given TWO (2) MONTHS from the mail date of this Request For Information in which to respond. Extensions of time under 37 CFR 1.136(a) will be permitted.

Please note, the papers submitted on April 4, 2003, were mislabeled and incorrectly referred to "Serial # 10/336,**680**." The error was detected and the papers matched with the correct file, however, in all future correspondence, please use the correct application/serial no. 10/336,**860**.

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

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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ANTHONY H. HANDAL
KIRKPATRICK & LOCKHART NICHOLSON GRAHAM
599 LEXINGTON AVENUE, 33RD FLOOR
NEW YORK, NY 10022-6030

COPY MAILED

JUN 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Nirmala Kocherlakota et al	:	
Application No. 10/336,866	:	ON PETITION
Filed: January 6, 2003	:	
Attorney Docket No. KOCHERLAKOTA	:	

This is a decision on the petition under 37 CFR 1.173(b), filed June 13, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed February 15, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 17, 2005.

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

The application file is being forwarded to Publishing Division.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APR 20 2005

In re Application of	:	
Karin Winter et al	:	NOTICE OF WITHDRAWAL
Serial No. 10/336,876	:	FROM ISSUE
Filed: January 7, 2003	:	UNDER 37 CFR 1.313(b)
For: METHOD FOR TREATING CEREBRAL ISCHAEMIA	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to a mistake on the part of the Office. See 37 CFR 1.313(b).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Christopher Low at (571) 272-0951.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Bruce M. Kisliuk
Director, Technology Center 1600

MICHAEL P. MORRIS
BOEHRINGER INGELHEIM CORPORATION
900 RIDGEBURY ROAD
P. O. BOX 368
RIDGEFIELD CT 06877-0368

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

Paper No. 4

NIXON & VANDERHYE P.C.
1100 NORTH GLEBE ROAD
8TH FLOOR
ARLINGTON, VA 22201-4714

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SEP 26 2003

OFFICE OF PETITIONS

In re Application of :
Hellberg :
Application No. 10/336,897 : ON PETITION
Filed: January 6, 2003 :
Attorney Docket No. 4147-17 :

This decision concerns the "Response/Petition re Notice of Omitted Items in a Nonprovisional Application" filed on May 12, 2003, in effect requesting withdrawal of a Notice mailed on April 7, 2003. This correspondence is being properly treated as a petition under 37 CFR 1.53(e), that the allegedly omitted pages of specification be accorded the same filing date as the remainder of the application.

The petition is **DISMISSED**

On January 6, 2003, the application was filed as a continuation of a PCT application, No. PCT/SE01/01392. On April 7, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" ("4/7/03 Notice"), stating that the application had been accorded a filing date of January 6, 2003, but that pages 2, 4, 6, 8, 10, 12, 14 and 16 of the specification appeared to have been omitted. The petition then followed.

Petitioner does not dispute the 4/7/03 Notice, but rather, argues that the entire content of PCT/SE01/01392 was incorporated by reference into the instant application. The Office agrees. In fact, an examination of the copy of PCT/SE01/01392 enclosed with the petition indicates that the PCT application is printed on both sides of the papers. Consequently, the even-numbered pages are on the reverse of the pages and, apparently, were not reproduced for filing on January 6, 2003.

Under MPEP 201.06© (Rev. 1, Feb. 2003), " . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter . . . The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation . . . application to include any subject matter in such prior application(s), without the need for a petition provided the continuation application is entitled to a filing date notwithstanding the incorporation by reference." (emphasis supplied)

If Applicant desires that the above-noted omitted pages of specification be added to the application, the appropriate procedure is by way of amendment requesting the entry of these pages. Any such amendment should be filed prior to the first action on the merits and will be considered by the primary examiner.

Accordingly, the petition is dismissed, in that, the omitted pages will not be accorded the January 6, 2003 filing date.

The petition fee will not be refunded, since the 4/7/03 Notice was correct in stating that pages 2, 4, 6, 8, 10, 12, 14 and 16 were omitted from the application as filed.

The application is being returned to OIPE for further processing with a filing date of January 6, 2003, using the papers present on filing.

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

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

#3

James M. Powers
3 Santa Lucia Avenue
Ormond Beach, FL 32174

MAILED

APR 25 2003

Office of the Director
Group 3600

In re application of
James M. Powers
Application No. 10/336,902
Filed: January 6, 2003
For: COLUMN AND BEAM CONSTRUCTION AND METHOD

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

This is a decision on the petition submitted on January 6, 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 signed statement from the applicant stating that he is at least 65 years of age.

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

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

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

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

KJD/tpl: 4/18/03

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

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

COPY MAILED

JUN 16 2003

OFFICE OF PETITIONS

In re Application of :
Shioto Okita :
Application No. 10/336,918 : DECISION GRANTING PETITION
Filed: December 26, 2002 :
Attorney Docket No. 89010 :

This is a decision on the petition filed March 17, 2003, (certificate of mailing dated March 12, 2003), requesting that the above-identified application be accorded a filing date of December 26, 2002.

On December 26, 2002, the above-identified application was filed. On February 14, 2003, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" (the "Notice"), stating that the application had not been accorded a filing date as the application was deposited without drawings and that the filing date would be the date the of receipt of the omitted drawings.

In response, on March 17, 2003, (certificate of mailing dated March 12, 2003), applicants filed the present petition, five (5) sheets of drawings and a copy of the applicants' postcard receipt acknowledging receipt of five (5) sheets of drawings, among other items, in the United States Patent and Trademark Office (Office) on December 26, 2002. Applicant requests that the application, including the five (5) sheets of drawings, be accorded a filing date of December 26, 2002.

Upon review of the record, the five (5) sheets of drawings, deposited December 26, 2002, have not been located among the application papers. The evidence is convincing, however, that the application papers deposited December 26, 2002, included five (5) sheets of drawings, which were subsequently misplaced by the Office. Therefore, the application, including the five (5) sheets of drawings, were complete on filing and entitled to a filing date of December 26, 2002.

Accordingly, the petition is granted.

Applicant is advised that the Notice was sent in error and is vacated.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 26, 2002, using the five (5) sheets of drawings submitted on December 26, 2002, and indicating in the Office records that five (5) sheets of drawings were included on the filing date.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 4

BIRCH STEWART KOLASCH & BIRCH
P.O. BOX 747
FALLS CHURCH, VA 22040

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MAY 07 2003

OFFICE OF PETITIONS

In re Application of :
Ikenaga, et al. :
Application No. 10/336,919 : ON PETITION
Filed: December 24, 2002 :
Title: FUNCTIONAL COATED PRODUCT :
AND PROCESS FOR PRODUCING THE SAME
AND THE USE THEREOF

This is a decision on the papers styled "Petition To Correct Filing Date," filed March 27, 2003, requesting that the above-identified application be accorded a filing date of December 24, 2002.

The above-identified application was filed on December 24, 2002. A filing receipt was mailed on March 11, 2003, that indicated a filing date of January 3, 2003 for the above-identified application.

In response, on March 27, 2003, the instant petition and a copy of a date-stamped return receipt postcard were filed. The return receipt postcard is date stamped December 24, 2002 by the Patent and Trademark Office and indicates that the reissue application and $740.00 and $192.00 in fees were filed on that date. It is noted that the items listed on the postcard receipt as received on December 24, 2002 are located in the application file, however, they are incorrectly date-stamped January 3, 2003.

In view of the above, the petition to accord the application a filing date of December 24, 2002, is granted.

The $130.00 petition fee will be refunded to deposit account no. 02-2448.

This application is being returned to the Office of Initial Patent Examination for correction of the filing date to December 24, 2002.

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

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

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 0 8 2009

OFFICE OF PETITIONS

HOWARD J. GREENWALD P.C.
70 LINDEN OAKS, THIRD FLOOR
ROCHESTER, NY 14625

In re Patent No. 6,821,426 :
Issue Date: November 23, 2004 :
Application No. 10/336,930 : ON PETITION
Filed: January 6, 2003 :
Attorney Docket No. 1046 003 301 02 01 :

This is a decision on the petition under 37 CFR 1.378(c), filed January 29, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on November 23, 2008 for failure to pay the first 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 3 ½ year maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

Kenneth W. Float
The Law Offices of Kenneth W. Float
2095 Hwy. 211 NW, Suite 2F #356
Braselton, GA 30517

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SEP 17 2004

OFFICE OF PETITIONS

In re Application of :
Timothy W. Rasmussen :
Application No. 10/336,934 : ON PETITION
Filed: January 6, 2003 :
Attorney Docket No. Y02-042 :

This is a decision on the renewed petition filed August 20, 2004, under 37 CFR 1.137(a), and in the alternative, under 37 CFR 1.137(b), to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **dismissed**.

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

The application became abandoned on April 25, 2003, for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application mailed on February 24, 2003, which set a two-month extendable period for reply. Petitioner did not obtain any extensions of time under 37 CFR 1.136(a). Accordingly, a Notice of Abandonment was mailed on February 2, 2004.

PETITION UNDER 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

> (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
>
> (2) the petition fee as set forth in § 1.17(l);
>
> (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
>
> (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks item (3) above.

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[1] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be

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[1] 35 U.S.C. § 133.

unavoidable, all other conditions of promptness in its rectification being present.[2]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[3]

As to item (3), petitioner asserts that the Notice to File Missing Parts was never received. A review of the written record indicates and petitioner concurs that the Notice of Missing Parts was properly mailed to the address of record on February 24, 2003. The showing required to establish the failure to receive an Office action 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.[4]

As petitioner has not provided sufficient evidence to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), the petition is dismissed.

PETITION UNDER 37 CFR 1.137(b)

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

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[2] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[3] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[4] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

submitted the required reply in the form of a surcharge of $65.00 for the late payment of the basic filing fee, previously paid the petition fee, and made the proper statement of unintentional delay. Accordingly, the petition under 37 CFR 1.137(b) is **granted**.

Petitioner states that he submitted a formal change of correspondence address form with the present renewed petition. A review of the file does not indicate receipt of a change of correspondence address form. Accordingly, the correspondence address will not be changed. If petitioner desires to receive future correspondence regarding this application, the appropriate a change of 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.

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

Christina Tartera Donnell

Christina Tartera Donnell
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

Kenneth W. Float
The Law Offices of Kenneth W. Float
2095 Hwy. 211 NW, Suite 2F #356
Braselton, GA 30517

COPY MAILED

AUG 1 6 2004

OFFICE OF PETITIONS

In re Application of :
Timothy W. Rasmussen :
Application No. 10/336,934 : ON PETITION
Filed: January 6, 2003 :
Attorney Docket No. Y02-042 :

This is a decision on the petition filed August 3, 2004, under 37 CFR 1.137(a), and in the alternative, under 37 CFR 1.137(b), to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **dismissed**.

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

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

The application became abandoned on April 25, 2003, for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application mailed on February 24, 2003, which set a two-month extendable period for reply. Petitioner did not obtain any extensions of time under 37 CFR 1.136(a). Accordingly, a Notice of Abandonment was mailed on February 2, 2004.

PETITION UNDER 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

> (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
>
> (2) the petition fee as set forth in § 1.17(l);
>
> (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
>
> (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks items (1) and (3) above.

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[1] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable

---

[1] 35 U.S.C. § 133.

> employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[2]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[3]

As to item (1), petitioner failed to submit the requisite surcharge of $65.00 for the late payment of the basic filing fee. Petitioner states that the requirement for the payment of the $65.00 late oath or declaration surcharge was sent in error because he timely submitted an executed declaration. Petitioner's attention is directed to the following paragraph as stated in the Notice of Missing Parts: "**To avoid abandonment, a late filing fee** or oath or declaration **surcharge** as set forth in 37 CFR 1.16(e) of $65.00 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter." (Emphasis added).

As to item (3), petitioner asserts that the Notice to File Missing Parts, was never received. A review of the written record indicates that the Notice of Missing Parts was properly mailed to the address of record. However, the address indicated on the petition differs from the address of record. There is no indication that petitioner submitted a change of correspondence address to the USPTO. Therefore, it appears that petitioner did

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[2] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[3] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

not receive the Notice because he failed to promptly notify the USPTO of a change of correspondence address. The address of record is "The Law Office of Kenneth W. Float, P.O. Box 80790, Rancho Santa Margarita, CA 92688." However, the address on the petition is "The Law Office os Kenneth W. Float, 2095 Hwy. 211 NW, Suite 2F #356, Braselton, GA 30517."

Petitioner is responsible for promptly notifying the Office of any change of address. The Office further notes that where an application becomes abandoned as a consequence of a change of correspondence address an adequate showing of "unavoidable" delay requires a showing that applicants exercised due care to promptly notify the Office of the change of address and file a timely notification of the change of address in the application.[4]

A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay.[5] Accordingly, the showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a).

As petitioner has not provided sufficient evidence to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), the petition is dismissed.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the appropriate a change of 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.

PETITION UNDER 37 CFR 1.137(b)

As stated above, petitioner failed to submit the requisite surcharge of $65.00 for the late payment of the basic filing fee.

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[4] MPEP 711.03(c)(III)(C)(2)

[5] See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v, Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

Accordingly, the petition under 37 CFR 1.137(b) is **dismissed.**

With any renewed petition, petitioner must submit the requisite $65.00 for the late payment of the filing fee.

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

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

By FAX: (703) 872-9306
Attn: Office of Petitions
(Note drawings may not be submitted by fax)

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Petitions Attorney
Office of Petitions

cc: Kenneth W. Float
The Law Offices of Kenneth W. Float
P.O. Box 80790
Rancho Santa Margarita CA 92688

UNITED STATES PATENT AND TRADEMARK OFFICE

P.O. Box 1450

Commissioner for Patents
United States Patent and Trademark Office
Alexandria, VA 22313-1450
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MAIL

NOV 27 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

MICHAEL N. HAYNES
1341 HUNTERSFIELD CLOSE
KESWICK VA 22947

In re Application of
COOK, DEBRA LEE, et al.
Application No. 10/336,949
Filed: January 6, 2003
For: **CALL SETUP REQUEST CONFIRMATION**

Decision on Petition

This is a decision on the petition filed October 5, 2007, pursuant to 37 C.F.R. §1.181.

The October 5, 2007 petition requests to withdraw the finality of the Office Action dated 5 June 2007 ("the present Office Action) due to that Office Action's failure to provide a clear grounds of rejection for at least claim 2.

The petition is **DISMISSED AS MOOT**.

A review of the file finds that an RCE was filed on November 13, 2007 and since has been granted. As a result, the application is no longer under final rejection. Application has been forwarded to the examiner for action on the RCE application.

Michael Hotabik
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 06/25/2010

Applicant	: Kan Frankie Fan	: DECISION ON REQUEST FOR
Patent Number	: 7647414	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/336,983	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/06/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1955** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DAVID H. SITRICK
SITRICK & SITRICK
8340 N. LINCOLN AVE., SUITE 201
SKOKIE, IL 60077

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NOV 17 2004

OFFICE OF PETITIONS

In re Application of :
David Sitrick :
Application No. 10/336,984 : NOTICE
Filed: January 6, 2003 :
Attorney Docket No. STD 1835

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20071001

DATE : October 1, 2007

TO SPE OF : ART UNIT 3714

SUBJECT : Request for Certificate of Correction on Patent No:: 7137892

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: Robert Pezzuto **Art Unit** 3714

OIPE
APR 02 2007
PATENT & TRADEMARK OFFICE

Approved 4/1/07

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

For:	SYSTEM AND METHODOLOGY FOR MAPPING AND LINKING BASED USER IMAGE INTEGRATION
Serial Number:	10/336,984
Patent Number:	7,137,892 B2
Issue Date:	November 11, 2006
Inventors (s)	SITRICK, David H.
Attorney Docket:	STD 1835

Petition for Certificate of Correction Under 1.322 and 37 CFR 1.323

Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant for the above-referenced patent respectfully requests a Certificate of Correction Under 37 CFR 1.322 and 37 CFR 1.323 for the following matters:

(1) Applicant respectfully requests a Certificate of Correction under 35 U.S.C. 254 and 35 U.S.C. 255 for correction of Applicant's mistakes of a clerical and typographical nature. Form PTO/SB/44 (04-05) is herewith submitted. It is respectfully submitted that these corrections do not constitute new matter or require reexamination.

(a) Applicant's mistakes are as follow and as shown on the attached form PTO/SB/44 (04-05):

Column 38, line 36, "the user" should read --a user--.

Column 38, line 48, "modifying" should read --the user to modify--.

Column 39, line 2, "the distinct" should read --the plurality of distinct--.

Column 39, line 11, "the distinct" should read --the plurality of distinct--.

Column 39, line 26, "provides the" should read --provides for a--.

04/03/2007 SSESHE1 00000080 501166 7137892
01 FC:1811 100.00 DA

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MOTOROLA INC.
600 NORTH US HIGHWAY 45, W4-39Q
LIBERTYVILLE, IL 60048-5343

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OFFICE OF PETITIONS

In re Application of	:	
David CRANFILL, et al	:	
Application No. 10/337,057	:	DECISION ON PETITION
Filed: January 6, 2003	:	
Attorney Docket No. CS22429RL	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 3, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before August 5, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed May 5, 2008. Accordingly, the date of abandonment of this application is August 6, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the Issue Fee of $1510 , the publication fee of $300, (2) the petition fee of $1620; 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 the Office of Data Management for processing into a patent.

Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/337,065	01/06/2003	Geoffrey Dearnaley	GOREMI192BUS	8465

23770 7590 07/14/2010

PAULA D. MORRIS
THE MORRIS LAW FIRM, P.C.
PO BOX 420787
HOUSTON, TX 77242-0787

EXAMINER	
MAPLES, JOHN S	

ART UNIT	PAPER NUMBER
1745	

NOTIFICATION DATE	DELIVERY MODE
07/14/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

AALANIZ@MORRISIPLAW.COM
PMORRIS@MORRISIPLAW.COM

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100623

DATE : July 12, 2010

TO SPE OF : ART UNIT 1795

SUBJECT : Request for Certificate of Correction on Patent No.:

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: /Jennifer Michener/ **Art Unit** 1795

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

04/12/04

William P. Glenn, Jr.
Roystin Rayzor Vickery & Williams, L.L.P.
2102 Mechanic Suite 205
Galveston, Texas 77550

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/337067 received on 03/08/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

UNITED STATES 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 HENDRICKS & OLIVERIO, LLP
ONE STATE STREET
SUITE 800
BOSTON MA 02109

COPY MAILED

NOV 0 2 2007

OFFICE OF PETITIONS

In re Application of :
Q. Peter ZHANG et al. :
Application No. 10/337,082 : DECISION ON PETITION
Filed: January 6, 2003 :
Attorney Docket No. G0003/7265 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 19, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed December 1, 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 March 2, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1) and (3). Petitioner has submitted the petition fee of $1500; however, petitioner has failed to submit the required reply and a proper statement of unintentional delay. Neither a Continuation

Application nor an affidavit was submitted as indicated by the petitioner.

Furthermore, the application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Brian Sines at (571) 272-6051 or in his absence, the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

Cc: James T. Carmichael
Michael A. Minter
Miles & Stockbridge
1751 Pinnacle Drive
Suite 500
McLean, VA 22102-3833

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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RISSMAN JOBSE HENDRICKS & OLIVERIO, LLP
100 Cambridge Street
Suite 2101
BOSTON MA 02114

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JAN 3 0 2008

OFFICE OF PETITIONS

In re Application of :
Q. Peter Zhang et al. :
Application No. 10/337,082 : ON PETITION
Filed: January 06, 2003 :
Attorney Docket No. G0003/7265 :

This is a decision on a renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed 15 November 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed 01 December 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on 02 March 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (3).

Petitioner, through the affidavit of Jodi L. Yingling (Yingling), asserts the delay was unintentional in that the patent owner had an obligation to notify the licensee if the patent owner declined to continue to prosecute the application and failed to do so. With respect to the affidavit of Yingling, it is noted Yingling does not appear to be the party having the right or authority to reply to avoid abandonment (or not reply) of the application as Yingling is neither an applicant for patent, an intervening assignee of the application, or other party in interest. While, Yingling states the patent owner had an obligation to notify the licensee if the patent owner declined to continue to prosecute the application and failed to do so, Yingling has provided no evidence of such an agreement. Accordingly, statements from all persons involved in the abandonment of the application including Therese A. Hendricks, Wayne Collette, and Jeanne Gibson and what they knew with respect to assignments, license agreements, and abandonment with respect to the application are required. Petitioner should further explain why the decision to abandon the instant application should not be binding on all parties and why the decision to abandon the instant application was not an intentional delay.

Petitioner has not shown to the satisfaction of the Director that the entire delay herein was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b).

35 U.S.C. § 41(a)(7) applies to the situation of the above-identified application (i.e., to the revival of an abandoned application), however, it precludes the Director from reviving the above-identified application. The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 would not be granted where the abandonment or the failure to pay the fee for issuing the patent was intentional as opposed to being unintentional or unavoidable."[emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), reprinted in 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Commissioner 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 there is a question whether the 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). Here, the showing is that applicant intentionally discontinued prosecution and permitted the application to become abandoned, due to its own conclusion that the application was not worth pursuing.

The showing is further that applicant made no effort to seek revival until after becoming aware of what petitioner characterizes as an "error". The language of both 35 USC 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).

However, both the delay herein in filing the reply during prosecution, and in filing the petition after abandonment, are inconsistent with a finding that the entire delay herein was unintentional, such that revival is proper. Simply put, a course of conduct resulting in a delay that is, as here, purposefully chosen does not qualify as unintentional delay.

It is further noted that 35 U.S.C. § 41(a)(7) does not require an affirmative finding that the delay was intentional, but only an explanation as to why the petitioner has failed to carry his or her burden to establish that the delay was unintentional. Cf. Commissariat A. L'Energie Atomique v. Watson, 274 F.2d 594, 597, 124 USPQ 126, 128 (D.C. Cir. 1960)(35 U.S.C. § 133 does not require the Commissioner to affirmatively find that the delay was avoidable, but only to explain why the applicant's petition was unavailing); see also In re Application of G, supra (petition under 37 CFR 1.137(b) denied because the applicant failed to carry the burden of proof to establish that the delay was unintentional).

Here, while petitioner contends that the failure to reply during the pendency of the application was an "error", petitioner nevertheless did not even seek revival until there was a change in circumstance long after abandonment, i.e., until petitioner became aware that the licensee was not notified. However, a change in circumstances that occurred subsequent to the abandonment of an application does not render "unintentional" the delay resulting from a previous deliberate decision to permit an application to be abandoned. These matters simply confuse the question of whether there was a deliberate decision not to continue the prosecution of an application with why there was a deliberate decision not to continue the prosecution of an application. A delay resulting from a deliberately chosen course of action on the part of the applicant does not become an "unintentional" delay within the meaning of 37 CFR 1.137(b) because the applicant does not consider the claims to be patentable over the references relied upon in an outstanding Office action.

While the entire record has been carefully reviewed, the showing of record is inconsistent with a finding that the entire delay herein was unintentional:

Where the applicant deliberately permits an application to become abandoned (e.g., due to a conclusion that the claims are unpatentable, that a rejection in an Office action cannot be overcome, or that the invention lacks sufficient commercial value to justify continued prosecution), the abandonment of such application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). 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). An intentional delay resulting from a deliberate course of action chosen by the applicant is not affected by: (1) the correctness of the applicant's (or applicant's representative's) decision to abandon the application or not to seek or persist in seeking revival of the application; (2) the correctness or propriety of a rejection, or other objection, requirement, or decision by the Office; or (3) the discovery of new information or evidence, or other change in circumstances subsequent to the abandonment or decision not to seek or persist in seeking revival. Obviously, delaying the revival of an abandoned application, by a deliberately chosen course of action, until the industry or a competitor shows an interest in the invention (a submarine application) is the antithesis of an "unavoidable" or "unintentional" delay. An intentional abandonment of an application, or an intentional delay in seeking either the withdrawal of a holding of abandonment in or the revival of an abandoned application, precludes a finding of unavoidable or unintentional delay pursuant to 37 CFR 1.137. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53132 at 53158-59 (October 10, 1997), reprinted at 1203 Off. Gaz. Pat. Office, 65 at 86 (October 21, 1997) (citations omitted).

Where, as here, the applicant deliberately permits an application to become abandoned (e.g., due to a conclusion that the claims are unpatentable, that a rejection in an Office action cannot be overcome, or that the invention lacks sufficient commercial value to justify continued prosecution), the abandonment of such application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). See In re Application of G, supra. An intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes his or her mind as to the course of action that should have been taken. See In re Maldague, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988).

The power of attorney filed on 15 November 2007 is not acceptable as the statement under 37 CFR 3.73(b) provided an incorrect assignee and an incomplete chain of title. The correct assignee is Graham Packaging PET Technologies Inc.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Allen C. Ho at (571) 272-6052.

David Bucci
Petitions Examiner
Office of Petitions

Cc:
MILES & STOCKBRIDGE PC
1751 Pinnacle Drive
Suite 500
Mclean, VA 22102-3833

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

MAIL

AUG 1 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Thomas C. H. Chen
5468 Cedar Creek Dr.
Houston TX 77056

In re Application of
Thomas C. H. Chen, et al.
Application No. 10/337,096
Filed: January 6, 2003
For: **WIRELESS COMMUNICATION AND GLOBAL LOCATION ENABLED INTELLIGENT HEALTH MONITORING SYSTEM**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the Petition to Withdraw Holding of Abandonment which is treated as pursuant to 37 CFR §1.181(a), filed August 3, 2005. No fee is required.

The petition is **DENIED.**

This application became abandoned for failure to pay the issue fee in response to the Notice of Allowance and Issue Fee Due mailed January 18, 2005. A Notice of Abandonment was mailed July 25, 2005.

Petitioner has alleged non-receipt of the Notice of Allowance and Issue Fee Due. The only evidence supplied by petitioner is a statement that they never received the original Notice of Allowance and Issue Fee Due.

In the absence of any irregularity in the mailing of an Office action, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner (in this case, first named inventor) stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

A review of the record indicates that the Office action was properly mailed to the applicant at the correspondence address of record at the time of mailing. 37 C.F.R. § 1.33 states in pertinent part:

> (a) The applicant, the assignee(s) of the entire interest (see §§ 3.71 and 3.73) or an attorney or agent of record (see §1.34(b)) may specify a correspondence address to which communications about the application are to be directed. All notices, official letters, and other communications in the application will be directed to the correspondence address or, if no such correspondence address is specified, to an

attorney or agent of record (see § 1.34(b)), or, if no attorney or agent is of record, to the applicant, so long as a post office address has been furnished in the application.

Thus, there was no irregularity in mailing the Office action on the part of the U.S. Patent and Trademark Office since the Office action was mailed to the address of record as specified in the Declaration filed January 6, 2003, by the petitioner and the applicant has not provided any evidence of a notification of change of correspondence address filed in the Patent and trademark office prior to the mailing date of the Office action.

Petitioner has not a submitted a statement attesting to the fact that a search of the file jacket and docket records indicates that the final Office action was not received. Additionally there are no copies of docket records where the non-received Office action would have been entered had it been received and docketed attached to, and referenced in petitioner's statement.

It is noted that the petitioner is a *pro se* applicant, however, some evidence must be presented in accordance with the showing outlined above to overcome the presumption that the Office action was properly mailed to the address of record. Other forms of evidence which ***may*** be considered include: verified statements from the applicant indicating mail handling procedures in place during the time period the Office action should have been received and an indication that a search for the Office action in the area where it would have been kept or filed was made; copies of all other correspondence received relating to this application; copies of any records kept in regard to correspondence or the progress of the application; letters from the Official Postal Service regarding mail delivery service during the time period in which the Office action would have been received; and copies of records listing incoming mail during the time period the Office action would have been received such as a mail log, etc.

In view of the lack of evidence presented to overcome the presumption of proper mailing, the petition must be **DENIED**.

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the date of this decision. Extensions of this time period are available in accordance with the provisions of 37 C.F.R. § 1.13(a). Should petitioners desire reconsideration, petitioners should supplement this petition with evidence as outlined above.

If petitioners are unable to provide evidence to overcome the presumption that the Notice of Allowance and Issue Fee Due mailed January 18, 2005, was properly mailed to the correspondence address of record, petitioner's may wish to consider filing a petition to revive an unintentionally abandoned patent application under 37 C.F.R. § 1.137(b): Questions regarding filing a petition under 37 C.F.R.§ 1.137(b) may be directed to the Office of Petitions at (571) 272-3282.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THOMAS C. H. CHEN
5468 CEDAR CREEK DR.
HOUSTON, TX 77056

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OCT 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Thomas C. H. Chen, et al. :
Application No. 10/337,096 : ON PETITION
Filed: January 6, 2003 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed September 7, 2005, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The petition for revival of an application for patent abandoned unintentionally under 37 CFR 1.137(b) submitted on September 7, 2005 was signed by one inventor. All communications must be signed by both inventors. 37 CFR 1.33(b) states:

> "Amendments and other papers filed in the application must be signed by: (1) An attorney or agent of record appointed in compliance with § 1.34(b); (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a); (3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest; (4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undivided part interest; or (5) All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73."

All communications submitted must be signed by both inventors in order to revive the application.

A review of the record indicates that the petitioner was inadvertently charged $1400 (large entity) for the issue fee. The correct amount for the issue fee was $700 for a small entity. Accordingly, the additional $700 charged, will be refunded by treasury check in due course.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Thomas C. H. Chen
5468 Cedar Creek Dr.
Houston TX 77056

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OFFICE OF PETITIONS

In re Application of :
Thomas C. H. CHEN et al. :
Application No. 10/337,096 : ON PETITION
Filed: January 6, 2003 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed October 26, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed January 18, 2005, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on April 19, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099.

The application file is being referred to the Office of Patent Publication.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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VERIZON
PATENT MANAGEMENT GROUP
1320 North Court House Road
9th Floor
ARLINGTON VA 22201-2909

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MAR 2 4 2009

OFFICE OF PETITIONS

In re Application of :
Baum :
Application No. 10/337,106 : ON PETITION
Filed: January 6, 2003 :
Attorney Docket No. 01-1514 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 27, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The instant petition has not been reviewed on the merits because it has not been properly executed in accordance with 37 CFR 1.33(b) which requires that amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii), filed in the application must be signed by: (1) a patent practitioner of record appointed in compliance with § 1.32(b); (2) a patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34; (3) an assignee as provided for under § 3.71(b) of this chapter; or (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Michael Wrenn's name appears on the unsigned petition. USPTO records reveal Mr. Wrenn's address differs from the correspondence address contained in the record for the instant application. If Mr. Wrenn desires to receive future correspondence regarding this application at an address other than that contained in the record, the appropriate change of correspondence address request must be submitted. While a courtesy copy of this decision is being mailed to Mr. Wrenn, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Any request for reconsideration must be accompanied by a properly executed petition.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/
Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: MICHAEL WRENN
BURNS, DOANE, SWECKER
& MATHIS, L.L.P.
P.O. BOX 1404
ALEXANDRIA, VA 22313

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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OCT 27 2009

OFFICE OF PETITIONS

VERIZON
PATENT MANAGEMENT GROUP
1320 North Court House Road
9th Floor
ARLINGTON VA 22201-2909

In re Application of :
Baum :
Application No. 10/337,106 : ON PETITION
Filed: January 6, 2003 :
Attorney Docket No. 01-1514 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed May 26, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned July 31, 2008 for failure to timely submit a proper reply to the final Office action mailed April 30, 2008. The final Office action set a three month shortened statutory period of time for reply. No petition for extension of time under 37 CFR 1.136(a) was submitted. Notice of Abandonment was mailed January 7, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

The instant petition has been carefully reviewed and found in compliance with the requirements set forth above.

This application is being directed to Group Art Unit for consideration of the Request for Continued Examination and submission.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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CHRISTIE, PARKER & HALE, LLP
P.O. BOX 7068
PASADENA, CA 91109-7068

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MAY 20 2005

OFFICE OF PETITIONS

In re Application of :
Shinichi Nakayama, et al. :
Application No. 10/337,110 : ON PETITION
Filed: January 6, 2003 :
Attorney Docket No. 48564/JEJ/U56 :

This is a decision on the petition, filed May 19, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 16, 2005, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated May 10, 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 forwarded to Technology Center AU 2821 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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CHRISTIE PARKER & HALE LLP
P.O. BOX 7068
PASADENA, CA 91109-7068

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AUG 1 8 2005

OFFICE OF PETITIONS

In re Application of :
Shinichi Nakayama et al :
Application No. 10/337,110 : ON PETITION
Filed: January 6, 2003 :
Attorney Docket No. 48564/JEJ/U56

This is a decision on the petition, filed August 16, 2005 under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 5, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2821 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW 04-04

Paper No. 5

VEDDER PRICE KAUFMAN & KAMMHOLZ
222 N. LASALLE STREET
CHICAGO IL 60601

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APR 3 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Wright et al.	:	
Application No. 10/337,139	:	DECISION DISMISSING
Filed: 7 January, 2003	:	PETITION
Atty Docket No. 21276.00.9059	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on 20 October, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed nonprovisional Application No. 09/415,696, filed on 12 October, 1999.

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 29 November, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]

(2) the surcharge set forth in § 1.17(t); and

---

[1] Any nonprovisional application or international application designated the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designated 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 indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on 7 January, 2003, and was copending with the above-noted, prior-filed international application, at the time of filing, for which priority is claimed. A references to the above-noted, prior filed international application has been included in an amendment to the first sentence of the specification following the title which was filed concurrently with the instant petition under 37 CFR 1.78(a)(3).

The reference to the above-noted, prior-filed international application was not included in the manner specified in 37 CFR 1.78(a)(2)(*i.e.*, in an ADS or in an amendment to the first sentence following the title of the specification) or filed within the period specified in 37 CFR 1.78(a)(2).

A reference to add the above-noted, prior-filed application on page one following the first sentence of the amendment embodied in the petition filed on 20 October, 2003. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980) where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides 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 de Seversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to piece new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in

section 251.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment deleting the incorporation by reference statement is required. Furthermore, petitioners are advised that in future filings, any amendment must be filed in a separate paper to avoid confusion.[2]

In order to expedite consideration, petitioner may wish to submit the substitute amendment by facsimile to the number indicated below and to the attention of Senior Petitions Attorney Douglas I. Wood.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquires should be directed to Senior Petitions Attorney Douglas I. Wood at 703-308-6918.

Charles A. Pearson
Director, Office of Petitions

[2] See 37 CFR 1.4(c).

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P.O. Box 1450
Alexandria, VA 22313-1450
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DIW 08-04

Paper No. 8

VEDDER PRICE KAUFMAN & KAMMHOLZ
222 N. LASALLE STREET
CHICAGO IL 60601

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SEP 23 2004

OFFICE OF PETITIONS

In re Application of	:	
Wright et al.	:	
Application No. 10/337,139	:	DECISION GRANTING
Filed: 7 January, 2003	:	PETITION
Atty Docket No. 21276.00.9059	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on 20 October, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed nonprovisional Application No. 09/415,696, filed on 12 October, 1999.

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 29 November, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]

(2) the surcharge set forth in § 1.17(t); and

[1]Any nonprovisional application or international application designated the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designated 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 indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on 7 January, 2003, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after 29 November, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought.[2] Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

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[2] See 35 U.S.C. § 120.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Douglas I. Wood at 703-308-6918.

The application is being forwarded to Technology Center Art Unit 3677 for appropriate action on the amendment filed on 17 May, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Charles A. Pearson
Director, Office of Petitions

Encl: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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KIRKPATRICK & LOCKHART NICHOLSON GRAHAM LLP
(FORMERLY KIRKPATRICK & LOCKHART LLP)
75 STATE STREET
BOSTON MA 02109-1808

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OCT 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Alan R. Spievack	:	
Application No. 10/337,152	:	DECISION GRANTING PETITION
Filed: 6 January, 2003	:	
Atty Dckt No. SPV-001C11	:	

This is a decision in reference to the petition filed on 2 June, 2003, under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of 6 January, 2003, rather than the currently-accorded filing date of 7 January, 2003.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioner.

The petition is **granted**.

Petitioners assert that the application was deposited in Express Mail service on 6 January, 2003. In support of petitioner's contention that the application was deposited in Express Mail Post Office to Addressee Service on 6 January, 2003, petitioner supplied, with the present petition, a copy of Express Mail Customer Label No. EV192309632US (the same Express Mail number found on the itemized transmittal sheet filed with the original application papers located in the official file).

The Express Mail Customer Label shows a "date-in" of "1-6-03."

In view of the above, the petition is granted. No petition fee is required and none has been charged.

The address listed on the petition is different than the correspondence address of record. A courtesy copy of this decision is being mailed to the address noted on the petition.

However, until otherwise instructed, all future correspondence regarding this patent will be mailed solely to the address of record.

The application is being returned to Office of Initial Patent Examination for reprocessing with a filing date of 6 January, 2003, not 7 January, 2003, and for issuance of a corrected Filing Receipt.

Telephone inquiries may be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: Rhonda P. Moore, D.V.M.
Testa, Hurwitz, & Thibeault, LLP
High Street Tower
125 High Street
Boston MA 02110

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

DUNLAP, CODDING & ROGERS P.C.
PO BOX 16370
OKLAHOMA CITY OK 73113

COPY MAILED

MAR 21 2006

OFFICE OF PETITIONS

In re Application of :
William H. Hildebrand et al. :
Application No. 10/337,161 : DECISION ON PETITION
Filing Date: January 2, 2003 :
Attorney Docket No. 6680.049 :
Title: PURIFICATION AND :
CHARACTERIZATION OF SOLUBLE :
HUMAN HLA PROTEINS :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 29, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

1. the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
2. the surcharge set forth in § 1.17(t); and
3. a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The reference to add the prior-filed applications on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed 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).

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet (37 CFR 1.76(a)(5)) or a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop 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 Paul Shanoski at (571) 272-3225.

Frances Hicks
Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. None

DUNLAP, CODDING & ROGERS P.C.
PO BOX 16370
OKLAHOMA CITY OK 73113

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AUG 14 2006

OFFICE OF PETITIONS

In re Application of	:	
William H. Hildebrand et al.	:	
Application No. 10/337,161	:	DECISION ON RENEWED PETITION
Filing Date: January 2, 2003	:	UNDER 37 CFR §1.78(A)(3)
Attorney Docket No. 6680.049	:	
Title: PURIFICATION AND	:	
CHARACTERIZATION OF SOLUBLE	:	
HUMAN HLA PROTEINS	:	

This is a decision on the renewed petition under 37 C.F.R 1.78(a)(3), filed March 8, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The original petition was filed on June 29, 2005, and was dismissed via the mailing of a decision on March 21, 2006.

The renewed petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 C.F.R. §1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 C.F.R. §1.78(a)(2)(ii). In addition, the petition under 37 C.F.R. §1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 C.F.R §§ 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date

> the claim was due under 37 C.F.R §1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed non-provisional applications is submitted after expiration of the period specified in 37 C.F.R §1.78(a)(2)(ii). Therefore, this is a proper petition under 37 C.F.R §1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 C.F.R §1.78(a)(3) in that (1) a reference to the prior-filed non-provisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 C.F.R 1.78(a)(2)(iii); (2) the surcharge fee required by 37 C.F.R 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §120 to the prior-filed non-provisional applications satisfies the conditions of 37 C.F.R 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 C.F.R 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 non-provisional applications, accompanies this decision on petition. Technology Center Art Unit 1644 will be notified of this decision, so that appropriate action can be taken on the amendment filed with this petition, including

consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §120 to the prior-filed non-provisional applications.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Frances Hicks
Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

#6

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DEC 17 2003

Office of the Director
Group 3600

R. Lewis Gable
Cowan, Liebowitz & Latman, P.C.
1133 Avenue of the Americas
New York, NY 10036

Paper No. 5

In re application of : **DECISION ON PETITION**
Leonard Haynes et al. : **TO MAKE SPECIAL**
Application No. 10/337,167 : **(ACCELERATED**
Filed: January 6, 2003 : **EXAMINATION)**
For: APPARATUS AND METHOD FOR FACILITATING THE SELECTION OF PRODUCTS BY BUYERS AND THE PURCHASE OF THE SELECTED PRODUCTS FROM A SUPPLIER

This is in response to the petition filed on June 20, 2003 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII. The delay in deciding this petition is regretted.

The petition is **DENIED**.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition filed June 20, 2003 fails to adequately meet requirements (B) (C), (D) and (E) above. The petition fails to meet condition (B) because all of the claims in the case are not directed to a single invention as indicated in the telephone interview with the examiner on November 24, 2003 and applicant refused to make an election without traverse (See MPEP 708.02). The petition states that a pre-examination search was made by NERAC, a professional search firm, but does not include a listing of the field of search by class and subclass, publication, abstracts, foreign patents etc. The petition fails to meet condition (D) above because a copy of each of the references that are deemed most closely related to the subject matter encompassed by the claims was not received. The petition also fails to adequately meet requirement (E) since the discussion of the references does not include a discussion of how the claimed subject matter is patentable over *each* of the references listed. Applicants merely conclude that

the prior art does not disclose their invention, and then go on to describe their inventive features without presenting a comprehensive discussion of how the features of the claims of the invention patentably define over each of the found references. Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

For the above stated reasons, the petition is dismissed.

SUMMARY: Petition to Make Special **DISMISSED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/cps: 12/8/03

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IRVINE CA 92604

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OFFICE OF PETITIONS

In re Application of :

VARLEY, John A. :
Application No. 10/337,178 : DECISION ON PETITION
Filed: January 06, 2003 : TO WITHDRAW
Attorney Docket No. **49008/HHA** : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 22, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, [has not work with applicant], 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: **WILLIAM J. KOELGRAFF**
3119 TURNBERRY WAY
JAMUL, CA 91935

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WILLIAM J. KOLEGRAFF
3119 TURNBERRY WAY
JAMUL CA 91935

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OFFICE OF PETITIONS

In re Application of	:	
Varley, John A.	:	
Application No. 10/337,178	:	ON PETITION
Filed: January 6, 2003	:	
Attorney Docket No. 49008	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 15, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 3635 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

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MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Application of :
Michael Linderman :
Application No. 10/337,180 : DECISION ON PETITION
Filed: January 6, 2003 : TO WITHDRAW
Attorney Docket No. 13726-002001 : 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 5, 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, "termination of representation of the assignee, Lab 7 Networks, at the request of the assignee", does not meet any the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

There is an outstanding Office action mailed July 12, 2006 that requires a response by the applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: LAB 7 NETWORKDS, INC.
7 MARKHAM AVENUE
OTTAWA, ONTARIO K2G3Z1
CANADA

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OFFICE OF PETITIONS

In re Application of	:	
Palese et al.	:	
Application No. 10/337213	:	ON REQUEST FOR RECONSIDERATION
Filing or 371(c) Date: 01/06/2003	:	OF PATENT TERM ADJUSTMENT
Atty Docket No.:	:	
6923-113	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT 37 C.F.R. § 1.705(b), filed August 10, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is, at a minimum,1583 days, not 375 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Attorney Derek Woods at (571) 272-3232.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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OFFICE OF PETITIONS

In re Patent No. 7,632,801	:	DECISION ON REQUEST FOR
PALESE et al.	:	RECONSIDERATION OF
Issue Date: December 15, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/337,213	:	AND
Filed: January 6, 2003	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. 6923-113	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on February 16, 2010, 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 one thousand five hundred eighty-nine (1589) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by **one thousand five hundred eighty-nine (1589) days** is **GRANTED**.

The required $200.00 fee set forth in 37 CFR 1.18(e) will be charged to the Deposit Account as authorized.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand five hundred eighty-nine (1589) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,632,801 B2

DATED : Dec. 15, 2009 **DRAFT**

INVENTOR(S) : PALESE 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 975 days

Delete the phrase "by 975 days" and insert – by 1589 days--

PTA Calculations for Application: 10/337213			
Application Filing Date:	01/06/2003	PTO Delay (PTO):	1439
Issue Date of Patent:	12/15/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	464
Post-Issue Petitions:	0	Total PTA (days):	1589
PTO Delay Adjustment:	614		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
98	06/08/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	614		
92.5	11/24/2009	PTA 36 MONTHS	595		
92	12/15/2009	PATENT ISSUE DATE USED IN PTA CALCULATION	5		85
91	11/17/2009	EXPORT TO FINAL DATA CAPTURE			
90	11/16/2009	DISPATCH TO FDC			
89	11/09/2009	MAIL-PETITION DECISION - DISMISSED			
88	11/09/2009	PETITION DECISION - DISMISSED			
87	08/11/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
86	08/10/2009	PETITION ENTERED			
85	08/10/2009	ISSUE FEE PAYMENT VERIFIED			
84	08/10/2009	ISSUE FEE PAYMENT RECEIVED			
83	07/01/2009	FINISHED INITIAL DATA CAPTURE			
82	05/28/2009	SEQUENCE FORWARDED TO PUBS ON TAPE			
80	05/11/2009	MAIL NOTICE OF ALLOWANCE			
79	05/08/2009	ISSUE REVISION COMPLETED			
78	05/08/2009	DOCUMENT VERIFICATION			
77	05/08/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
76	05/01/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
75	05/01/2009	CASE DOCKETED TO EXAMINER IN GAU			
74	04/30/2009	NOTICE OF ALLOWABILITY			
70	04/20/2009	NOTICE OF APPEAL FILED			
69	04/20/2009	NEW OR ADDITIONAL DRAWING FILED			
68	04/21/2009	DATE FORWARDED TO EXAMINER			
67	04/20/2009	AMENDMENT AFTER FINAL REJECTION		32	65

66	04/20/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
65	12/19/2008	MAIL SUPPLEMENTAL FINAL REJECTION			
64	12/18/2008	SUPPLEMENTAL FINAL REJECTION			
63	07/25/2008	MAIL FINAL REJECTION (PTOL - 326)			
62	07/21/2008	FINAL REJECTION			
61	06/05/2008	NEW OR ADDITIONAL DRAWING FILED			
60	07/11/2008	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
59	06/05/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
58	06/05/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
57	06/26/2008	DATE FORWARDED TO EXAMINER			
56	06/05/2008	RESPONSE AFTER NON-FINAL ACTION		92	50
55	06/05/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
54	06/05/2008	NEW OR ADDITIONAL DRAWING FILED			
53	06/05/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
51	06/05/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
50	12/05/2007	MAIL NON-FINAL REJECTION	203		40
49	12/04/2007	NON-FINAL REJECTION			
48	01/06/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
47	09/27/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
46	09/20/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
41	11/29/2007	DATE FORWARDED TO EXAMINER			
40	01/16/2007	RESPONSE TO A LETTER TO COMPLY WITH THE SEQUENCE RULES			
39	11/28/2007	CASE DOCKETED TO EXAMINER IN GAU			
38	09/20/2007	REFERENCE CAPTURE ON IDS			
37	09/20/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		247	40
36	09/20/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
35	08/23/2007	CASE DOCKETED TO EXAMINER IN GAU			
		CRF IS GOOD TECHNICALLY / ENTERED INTO			

34	01/25/2007	DATABASE			
33	12/13/2006	MAIL LETTER REQUIRING CRF (UNREADABLE, NON-COMPLIANT, NOT SUBMITTED)			
32	12/08/2006	CRF DISKETTE UNREADABLE / DID NOT COMPLY / REQUIRED BUT NOT SUBMITTED			
31	09/27/2006	REFERENCE CAPTURE ON IDS			
30.7	09/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	28
30	09/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	10/06/2006	DATE FORWARDED TO EXAMINER			
28	09/27/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
27	09/27/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
26	06/29/2006	MAIL RESTRICTION REQUIREMENT			
25	06/26/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
24	04/11/2006	DATE FORWARDED TO EXAMINER			
23	04/03/2006	RESPONSE TO ELECTION / RESTRICTION FILED		32	21
22	04/03/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
21	12/02/2005	MAIL RESTRICTION REQUIREMENT	636		-1
20	12/01/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
19	04/01/2005	CASE DOCKETED TO EXAMINER IN GAU			
18	11/22/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17	11/22/2004	CASE DOCKETED TO EXAMINER IN GAU			
16	01/06/2003	REFERENCE CAPTURE ON IDS			
15.7	01/06/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	01/06/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	01/06/2003	PRELIMINARY AMENDMENT			
13	08/27/2003	APPLICATION DISPATCHED FROM OIPE			
12	08/28/2003	APPLICATION IS NOW COMPLETE			
11	08/12/2003	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM		61	8
10	08/12/2003	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
9	08/12/2003	APPLICANT HAS SUBMITTED A NEW SPECIFICATION TO CORRECT CORRECTED PAPERS PROBLEMS			

8	03/12/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
6	03/05/2003	CLEARED BY L&R (LARS)			
5	01/27/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
4	01/16/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
3	01/13/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	01/06/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	01/06/2003	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/26/2010

Applicant	: Martin Kolb	: DECISION ON REQUEST FOR
Patent Number	: 7669118	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/337,230	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/06/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1327** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

EXXONMOBIL RESEARCH & ENGINEERING COMPANY
P.O. BOX 900
ANNANDALE NJ 08801-0900

In re Application of	:	
Peter S. Maa et al	:	
Application No. 10/337,243	:	DECISION GRANTING PETITION
Filed: January 6, 2003	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. ESW-0301	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 27, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of May 25, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1764.

Karen Creasy
Petitions Examiner
Office of Petitions

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Paper No. 9

OGILVY RENAULT
1981 McGill College Avenue
Suite 1600
Montreal, Canada H3A2Y-3

In re Application of:
Paul Demone
Serial No.: 10/337,346
Filed: January 7, 2003
Attorney Docket No.: **16319-239US**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the petition filed on July 7, 2004 and resubmitted on September 29, 2004. The petition is being treated as a petition under 37 C.F.R. § 1.181, to withdraw the holding of abandonment of the above identified application.

The petition is **DENIED**.

The application was held abandoned for failure to timely file a response to the Office action mailed June 19, 2003. A Notice of Abandonment was mailed on February 10, 2004.

Petitioner asserts that neither the Office action mailed June 19, 2003 nor the Notice of Abandonment mailed February 10, 2004 was received. Petitioner states that the probable cause for the non-receipt of the Office action and Notice of Abandonment was due to an erroneous transcription of applicant's customer number in the Change of Correspondence Address filed April 24, 2003. The Change of Correspondence Address listed the wrongly transcribed customer number "02988" as opposed to the correct customer number "020988". Accordingly, petitioner asserts that the Office action and Notice of Abandonment could not have been received and thus petitioner qualifies for relief under M.P.E.P. § 711.03(c)(II).

A review of the record indicates that both the Office action and the Notice of Abandonment were properly mailed to Customer Number 02988 per the Change of Correspondence Address filed April 24, 2003. M.P.E.P. § 502 provides that a minor error in the identification of an application can be corrected by the Office provided the correct identification can be quickly discovered. In this instance, the Office is not capable of discovering the error since an applicant may properly designate any Customer Number as the correspondence address. Furthermore, M.P.E.P. § 403 states that any inconsistencies between the correspondence address resulting from a Customer Number being provided in an application for the correspondence address and any other

correspondence address provided in that application will be resolved in favor of the address of the Customer Number.

Although petitioner requests relief under M.P.E.P. § 711.03(c)(II), petitioner has not filed a petition under 37 C.F.R. § 1.137 to revive an abandoned application as designated by Part II of M.P.E.P. § 7.11.03(c). Petitioner appears to have requested withdrawal of the holding of abandonment under M.P.E.P. § 711.03(c)(I)(A) based on a failure to receive Office action. Since the Office action and Notice of Abandonment were properly mailed to the address of record, petitioner is not entitled to relief under M.P.E.P. § 711.03(c)(I)(A).

Petitioner may wish to consider filing a petition under 37 C.F.R. 1.137 (a) or (b) to revive the application.

It is noted that petitioner still has not filed a proper Change of Correspondence Address in this application. As such, the Correspondence Address of the application file remains unchanged.

Inquiries regarding this decision should be directed to Clayton E. LaBalle, Special Program Examiner, at (571) 272-1594.

James L. Dwyer
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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#13

OGILVY RENAULT LLP
1981 MCGILL COLLEGE AVENUE
SUITE 1600
MONTREAL QC H3A2Y-3
CANADA

COPY MAILED

MAR 2 0 2006

OFFICE OF PETITIONS

In re Application of :
Paul Demone :
Application No.10/337,346 : ON PETITION
Filed: January 7, 2003 :
Title of Invention: Method and Apparatus For :
Simultaneous Differential Data Sensing and :
Capture in a High Speed Memory

This is a decision on the petition filed January 27, 2006 under 37 CFR 1.137(a).

The petition to revive under 37 C.F.R. § 1.137(a) is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely submit a response to the non-final Office Action mailed June 19, 2003. The Notice set an extendable 3 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application was held abandoned on September 20, 2003. A Notice of Abandonment was mailed on February 10, 2004. A decision dismissing a petition to withdraw the holding of abandonment was mailed on March 22, 2005.

Petitioner contends the non-final Office Action and the Notice of Abandonment were not received because a change of correspondence address filed on April 24, 2003 provided an incorrect address. The request asked that the correspondence address be changed to the address affiliated with customer number 02988 rather than the correct customer number of 020988 (20,988). Petitioner contends that it is evident that a reply to the non-final Office Action could not have been provided.

Petition to revive under 37 CFR 1.137(a)

A grantable petition under 37 C.F.R. § 1.137(a) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

The instant petition lacks item (3).

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 C.F.R. § 1.137(a).

The Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 C.F.R. § 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is applicable to ordinary human affairs, and requires no more greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case by case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2D 1130 (N.D. Ind. 1987).

Petitioner's argument has been considered but it is deemed insufficient to establish unavoidable delay. The change of correspondence address via customer number was entered as it was presented by attorney of record Kevin Pillay. A delay resulting from an attorney's preoccupation with other legal matters or with the attorney's inadvertence or mistake is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 35 USC 151 and 37 CFR 1.137(a). Mossinghoff, 671 F.2d at 536.

Further, where there is inconsistencies between the correspondence address resulting from a customer number being provided in an application for the correspondence address and any other correspondence address provided in that application would be resolved in favor of the address of the customer Number. MPEP 403

---

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[2]

The request for change of correspondence address submitted with the instant petition has been entered and made of record (signed by sole applicant).

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the present petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the present petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

Alternative Venue

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by the required reply, the required petition fee, and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional.

The filing of a petition under 37 C.F.R. § 1.137(b) cannot be intentionally delayed, and therefore, must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 C.F.R. § 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 C.F.R. § 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450

---

[2]See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

Alexandria, VA 22313-1450

By facsimile: (571) 873-8300

By delivery service: (FedEx, UPS, DHL, etc.)
U.S. Patent and Trademark Office
Customer Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper 18

BORDEN LADNER GERVAIS LLP
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA ON K1P 1J9 CA CANADA

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JUN 20 2006

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Paul Demone :
Application No. 10/337,346 :
Filed: January 7, 2003 :
Attorney Docket Number: 16319-239US

This is a decision on the petition under 37 CFR 1.137(b), filed May 18, 2006, to revive the above-identified application.

This application became abandoned for failure to timely submit a response to the non-final Office Action mailed June 19, 2003. The Notice set an extendable 3 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application was held abandoned on September 20, 2003. A Notice of Abandonment was mailed on February 10, 2004. A decision dismissing a petition to withdraw the holding of abandonment was mailed on March 22, 2005. A decision dismissing a petition under 37 CFR 1.137(a) was mailed on March 20, 2006.

This petition is hereby **Granted**.

The office hereby acknowledges the receipt of the amendment.

The change of correspondence address and Power of Attorney has been entered.

This application is being forwarded to Technology Center 2800 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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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ANTONELLI, TERRY, STOUT & KRAUS
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

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AUG 0 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Tomohiko Sato et al	:	
Application No. 10/337,365	:	ON PETITION
Filed: January 7, 2003	:	
Attorney Docket No. 501.42187X00	:	

This is a decision on the petition, filed August 2, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 20, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2629 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. _____

Date : August 3, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

COPY MAILED
AUG 03 2006
OFFICE OF PETITIONS

SUBJECT : Withdrawal from Issue of

Applicant(s) :Tomohiko Sato et al
Application No. :10/337,365
Filed :January 7, 2003

The above-identified application has been assigned Patent No. 7,088,332 and an issue date of August 8, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of August 8, 2006:

> "All reference to Patent No. 7,088,332 to Tomohiko Sato et al of Japan for DISPLAY DEVICE appearing in the Official Gazette of August 8, 2006 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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Paper No. 9

HALE & DORR LLP
THE WILLARD OFFICE BUILDING
1455 PENNSYLVANIA AVE, NW
WASHINGTON DC 20004

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SEP 3 0 2003

OFFICE OF PETITIONS

In re Application of
Kenneth J. Brown et al.
Application No. 10/337,366
Filed: January 7, 2003
Attorney Docket No. 103864.128US1
Title: APPARATUS AND METHOD FOR CONSTRUCTING FORMULARIES

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(f)

This is a decision on the petition filed on September 4, 2003, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Petitioner states that the instant nonprovisional application is the subject of an application filed in either a foreign or an international application on January 22, 2003. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

On January 27, 2003, a Notice of Rescission of Nonpublication Request was filed with the Office. Unfortunately, this was not accompanied by a notice of the foreign or international filing.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §1.22(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of either a foreign application or an application under a multilateral international agreement that requires publication of applications 18 months after filing.

The petition under 37 C.F.R. §1.137(f) is **GRANTED**.

Petitioner has submitted the notification of either a foreign or an international filing, paid the petition fee, and has made the proper statement of unintentional delay.

The instant petition has been found to be in compliance with 37 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(i), filed with the original application papers, has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of January 8, 2004 accompanies this decision on petition.

After this decision is mailed, the application will be forwarded to Technology Center 3600 for further processing.

Telephone inquiries concerning *this decision* should be directed to Attorney Paul Shanoski at (703) 305-0011.

Paul Shanoski
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

Paper No. 9

HALE & DORR LLP
THE WILLARD OFFICE BUILDING
1455 PENNSYLVANIA AVE, NW
WASHINGTON DC 20004

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OCT 0 2 2003

OFFICE OF PETITIONS

In re Application of
Kenneth J. Brown et al.
Application No. 10/337,371
Filed: January 7, 2003
Attorney Docket No. 103864.127US1
Title: APPARATUS AND METHOD FOR CONSTRUCTING AND MANAGING CLINICAL RULES

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(f)

This is a decision on the petition filed on September 4, 2003, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Petitioner states that the instant nonprovisional application is the subject of an application filed in either a foreign or an international application on January 22, 2003. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

On January 27, 2003, a Notice of Rescission of Nonpublication Request was filed with the Office. Unfortunately, this was not accompanied by a notice of the foreign or international filing.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §1.22(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of either a foreign application or an application under a multilateral international agreement that requires publication of applications 18 months after filing.

The petition under 37 C.F.R. §1.137(f) is **GRANTED**.

Petitioner has submitted the notification of either a foreign or an international filing, paid the petition fee, and has made the proper statement of unintentional delay.

The instant petition has been found to be in compliance with 37 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(i), filed with the original application papers, has been rescinded.

After this decision is mailed, the application will be forwarded to Technology Center 3700 for further processing.

Telephone inquiries concerning *this decision* should be directed to Attorney Paul Shanoski at (703) 305-0011.

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/337,403	01/06/2003	Kazuhisa Arima	16422.003001	7375

7590 06/15/2005

ROSENTHAL & OSHA L.L.P.
Suite 2800
1221 McKinney
Houston, TX 77010

EXAMINER	
WALLENHORST, MAUREEN	
ART UNIT	PAPER NUMBER
1743	

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

6/14/05

In re Application of	:	
Kazuhisa Arima	:	NOTICE OF WITHDRAWAL
Serial No. 10/337,403	:	FROM ISSUE
Filed: January 06, 2003	:	UNDER 37 CFR 1.313(b)
For: METHOD FOR STABILIZING BLOOD, SERUM,: OR PLASMA SPECIMEN AND CONTAINER CON-: TAINING Ph BUFFER AGENT	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to reopening of prosecution. See 37 CFR 1.313 (b).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Jill Warden at (571) 272-1267.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

ROSENTHAL & OSHA LLP
Suite 2800
1221 McKinney
Houston, TX 77010

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OFFICE OF PETITIONS

LAW OFFICE OF MICHAEL A SANZO LLC
15400 CALHOUN DR
SUITE 125
ROCKVILLE MD 20855

In re Application	:	
Jiang, et al.	:	
Application No. 10/337,417	:	DECISION ON APPLICATION
Filed: January 7, 2003	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 7570/80168	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. 1.705)", filed December 18, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from five hundred thirty-three (533) days to five hundred ninety-four (594) days.

The application for patent term adjustment is **GRANTED** to the extend 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 **five hundred eighty-two (582) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 30, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is five hundred thirty-three (533) days. On December 18, 2006, Applicants timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is five hundred ninety-four (594) days.

Applicants assert entitlement to a patent term adjustment of five hundred ninety-four (594) days on the basis that the PTO improperly assessed Applicants a delay of sixty-one (61) days for responding to a June 2, 2004 non-final Office action by filing an Amendment on November 2, 2004. Applicants assert that they filed the Amendment on August 13, 2004.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of five hundred thirty-three (533) days based on an adjustment for PTO delay of three hundred thirty-six (336) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), five hundred sixty-nine (569) days pursuant to 37 C.F.R. 1.703(e), and twelve (12) days pursuant to 37 C.F.R. 1.703(a)(4), reduced by Applicants' delay of sixty-one (61) days pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(b), and seventy-four (74) days pursuant to 37 C.F.R. 1.704(c)(7). The adjustments of 12 and 61 days are at issue.

The adjustment of sixty-one (61) days has been reviewed and determined to be incorrect. A review of the record confirms that Applicants did timely respond to the June 2, 2004 non-final Office action when they filed an Amendment on August 13, 2004. Accordingly, zero (0) days of delay should have been assessed with respect to this filing.

However, the Office should not have been assessed twelve (12) days of delay for filing an Examiner's Answer on December 20, 2005. Applicants filed a Reply Brief on August 8, 2005. However, on September 23, 2005, the Office mailed a Notice of Non-Compliant Appeal Brief, pointing out that Applicants' brief did not comply with 37 C.F.R. 41.37.

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[1] Applicants filed the application for patent term adjustment prior to the issue fee.

Applicants filed a brief in compliance with 41.37 on October 21, 2005, and the Office timely mailed a reply within four months pursuant to 37 C.F.R. 1.703(a)(4) on December 20, 2005. Accordingly, zero (0) days of PTO delay should have been assessed with respect to this mailing.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **five hundred eighty-two (582) days** (656 (569+87) days of PTO delay and 74 days of applicant delay).

Petitioner submitted a fee in the amount of $400. As the fee set forth in 37 C.F.R. § 1.18(e) is $200, the excess $200 will be refunded to petitioner under separate cover.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Nancy Johnson for

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Revised PAIR Screen

PTA Calculations for Application: 10/337417			
Application Filing Date:	01/07/2003	PTO Delay (PTO):	668
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	135
Post-Issue Petitions:	0	Total PTA (days):	582
PTO Delay Adjustment:	49		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
72	03/02/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		12	
71	03/02/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	61		
63	11/30/2006	MAIL NOTICE OF ALLOWANCE			
62	11/28/2006	ISSUE REVISION COMPLETED			
61	11/28/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
60	11/27/2006	NOTICE OF ALLOWABILITY			
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		FILED			
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DIRECTOR'S OFFICE
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In re application of : **DECISION ON PETITION**
Jorge Eduardo Montepeque : **TO MAKE SPECIAL**
Application No. 10/337,432 : **(ACCELERATED EXAMINATION)**
Filed: January 7, 2003
For: METHOD AND TRADING INSTRUMENT
FOR EFFECTING TRADE OF A COMMODITY
AND METHOD OF ASSESSING
A COMMODITY PRICE

This is in response to the petition filed on January 7, 2003 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references.

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

kjd:12/2/04

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OFFICE OF PETITIONS

DR BENEDICT S LIAO MD
SUITE 206
600N GARFIELD AVE
MONTEREY PARK CA 91754

In re Application of :
Liao, et al. :
Application No. 10/337,434 : ON PETITION
Filed: January 6, 2003 :
Title: Lipid Metabolism and Fructus Crataegus :

This is a decision on the Petition for Revival of an Application Abandoned Unavoidably Under 37 CFR 1.137(a), filed April 9, 2007.

The petition under 37 CFR 1.137(a) is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled, "Renewed Petition under 37 CFR 1.137(a)."

The above-identified application became abandoned for failure to timely file a proper reply to the non-final Office action mailed June 23, 2005. Applicants filed an RCE on September 13, 2005. However, the RCE was not a proper reply, as prosecution in the application had not yet closed, and the RCE was not accompanied by an amendment. Accordingly, no proper reply having been received, the application became abandoned on September 24, 2005. The Office mailed a Notice of Improper Request for Continued Examination on July 6, 2006. However, this Notice did not set a new period for reply. The

Notice indicated that the period for reply was that set forth in the last Office action (the non-final Office action mailed June 23, 2005). A Notice of Abandonment was mailed on March 6, 2007.

Consideration of petition under 1.137(a) (Unavoidable Delay)

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

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]

Petitioner asserts health problems that began in August of 2006 as his grounds for unavoidable delay. However, that is more than one year from the mailing date of the Office action at issue - the Office action mailed June 23, 2005. The record already reveals that petitioner filed a reply to that Office action. However, the reply was not proper.

If petitioner can not establish that the entire period of delay was unavoidable, petitioner may revive the above-identified application under the provisions of 37 CFR 1.137(b), 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

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[1] In re Mattulath, 38 App. D.C. 497, 514-15 (1912)(*quoting* Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[2] See Haines, 673 F. Supp. at 317, 5 U.S.P.Q. 2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

1.17(m) (currently $750 for a small entity); (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. 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 paragraph (d) of this section.

Finally, it is noted that the instant petition has only been signed by one of the inventors. 37 CFR 1.33(b) states that papers filed in a patent application must be signed by:

> (1) A patent practitioner of record appointed in compliance with § 1.32(b);
> (2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under § 3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

There is no indication that applicants have appointed a patent practitioner. Moreover, there is no indication that applicants have assigned their interest in the application to an assignee. As such, until such time as the inventors appoint a patent practitioner or execute an assignment, all future correspondence must be signed by all of the inventors.

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: 703-746-3258
Office of Petitions
Attn: Cliff Congo

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Mark Robinson :
Application No. 10/337,438 : DECISION ON
Filed: January 6, 2003 : PETITION
Atty Docket No. 108298693US :

This is in response to the "Petition under 37 C.F.R. § 1.10(e)," filed April 21, 2006 (received in the Office of Petitions on May 11, 2006). This petition was very recently forwarded to the undersigned for consideration.

The petition is **GRANTED**[1].

The above-identified application became abandoned for failure to timely pay the issue fee and publication fee within the three-month statutory period set in the Notice of Allowance and Fee(s) Due mailed November 24, 2004. No reply having been received, the above-identified application became abandoned on February 25, 2005. A courtesy Notice of Abandonment was mailed on March 29, 2005.

Applicants filed a petition to withdraw the holding of abandonment on April 26, 2005. Then, on February 3, 2006, applicants filed a status inquiry. Having received no response on April 21, 2006, applicants filed the instant petition.

---

[1] As detailed in this decision, the abandonment of this application has been rescinded. Thus, this petition could be dismissed as involving moot issues. The undersigned has made a conscious decision to grant this petition to avoid any further delay in issuance based on there being an outstanding petitionable matter.

The record indicates that by Notice dated July 13, 2006, the Office of Patent Publication rescinded the abandonment. However, this rescission was not effective to respond to the separate petition under 1.10(e). (It is suggested that any such petition filed in the future only be filed under § 1.181 as a petition to withdraw the holding of abandonment with the evidence pursuant to 1.10(e). It is acknowledged that given the non-responsiveness applicants were attempting alternative venues to achieve action in the application).

It is agreed as reflected in the Office of Patent Publications decision to rescind that the proper response to the Notice of Allowance and Fee(s) Due should be considered timely filed on February 7, 2005, based on its deposit in the USPS' Express Mail Post Office to Addressee service on that date. Petitioner has supplied copies of: the Issue Fee transmittal, which bears the relevant Express Mail mailing label number; the Express Mail label, showing a date-in of February 7, 2005; and the USPS's Track and Confirm record showing that the Express Mailing was enroute on February 7, 2005.

Thus, the notice of abandonment mailed March 29, 2005 and the holding of abandonment were properly rescinded.

No fee is required on petition under § 1.181 or under § 1.10.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded to the Publishing Division for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Sethuraman et al :
Application No.10/337,447 : ON PETITION
Filed: January 7, 2003 :
Title of Invention: Gypsum Layered Panels :
Containing Styrene Butadiene Latex Additive :

This is a decision on the petition filed December 6, 2004 under 37 CFR 1.137(a).

The petition to revive under 37 C.F.R. § 1.137(a) is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely submit the issue and publication fees , as required by the Notice of Allowance and Fee (s) Due which was mailed June 17, 2004. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on September 17, 2004. A Notice of Abandonment was mailed on October 27, 2004.

Petitioner contends the Notice of Allowance and Fee(s) due was not received until after the three month statutory time period for reply.

Petition to revive under 37 CFR 1.137(a)

A grantable petition under 37 C.F.R. § 1.137(a) must be accompanied by:

(1) the required reply,[1]
(2) the petition fee,
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

The instant petition lacks item (3).

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 C.F.R. § 1.137(a).

The Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 C.F.R. § 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is applicable to ordinary human affairs, and requires no more greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case by case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2D 1130 (N.D. Ind. 1987).

A review of the record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice of Allowance was properly mailed to the address of record.

Petitioner states a telephone interview with the examiner on June 10, 2004, resulted in the acceptance of the proposed amendments and the allowance of the application. During the conversation petitioner requested that the examiner send a courtesy copy of the Notice of Allowance because petitioner had not received an executed statement of Ownership and Power of Attorney/Change of Correspondence Address form. The forms were subsequently submitted in the Office on July 20, 2004. Petitioner states a status inquiry was submitted on August 24, 2004.

Petitioner further states the Notice of Allowance was not received from the former

---

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

representative of record (Howrey Simon Arnold and White) until September 30, 2004 even though, the former representative of record forwarded the Notice on June 24, 2004. Petitioner argues the issue and publication fees were unavoidably delayed because the Notice of Allowance was not received until after the reply period expired.

Petitioner's evidence has been considered but it is not persuasive. A review of the record shows the Notice of Allowance and Fees due was mailed to the correspondence address of record. Where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address does not constitute unavoidable delay. See MPEP 711.03(c).

The Notice of Allowance and Fee(s) due was mailed on June 17, 2004. The revocation of power of attorney and change of correspondence was not submitted until July 20, 2004 almost a month after the Notice was mailed. Thus, petitioner's belated notification and the failure of the Notice to reach petitioner in sufficient time for a timely reply does not constitute unavoidable delay.

Alternative Venue

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by the required reply, the required petition fee, and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional.

The filing of a petition under 37 C.F.R. § 1.137(b) cannot be intentionally delayed, and therefore, must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 C.F.R. § 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 C.F.R. § 1.137(b).

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
Customer Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Sethuraman et al :
Application No. 10/337,447 : ON PETITION
Filed: January 7, 2003 :
Attorney Docket No. 05111.0139 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 17, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed June 17, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 18, 2004.

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
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of
Eveleigh and Kline
Application No. 10/337,455
Filed: January 7, 2003
Attorney Docket No. 1811-0039
For: FAIL-SAFE PROPORTIONAL MIXING VALVE

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed April 21, 2003.

The petition is granted.

The above-identified application was filed on January 7, 2003, without an executed oath or declaration. On February 28, 2003, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Application," which indicated that the oath or declaration was missing the signature of the inventor. On April 21, 2003, applicants submitted a copy of the decision granting a petition to accord status under 37 CFR 1.47(a) in prior Application No. 09/042,959, now U.S. Patent No. 6,042,015. Additionally, applicants filed the present petition and a copy of the executed declaration in prior Application No. 09/042,959 (U.S. Patent No. 6,042,015) in compliance with 37 CFR 1.63(d)(3).

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. No petition fee is necessary.

The application file will be forwarded to Technology Center 3700 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosed: Corrected Filing Receipt

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SUITE 3000
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NOV 24 2003

OFFICE OF PETITIONS

In re Application of :
Robert Eveleigh et al :
Application No. 10/337,455 : ON PETITION
Filed: January 7, 2003 :
Attorney Docket No. 1811-0039 :

This is a decision on the petition under 37 CFR 1.313(c), filed November 3, 2003, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 29, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (703) 306-5685.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 3726 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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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.
10/337,456	01/07/2003	Hiroshi Inagaki	89050	1130

24628 7590 11/10/2005

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22ND FLOOR
CHICAGO, IL 60606

EXAMINER	
HITESHEW, FELISA CARLA	

ART UNIT	PAPER NUMBER
1765	

DATE MAILED: 11/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 23313-1450
WWW.USPTO.GOV

Mailed:

In re Application of
Hiroshi Inagaki
Serial No.: 10/337,456
Filed: January 07, 2003

DECISION ON PETITION UNDER *37 CFR 1.48(b)*

For: APPARATUS FOR PULLING SINGLE CRYSTAL CZ METHOD

This is a decision on the request for CORRECTION OF INVENTORSIP UNDER 37 C.F.R. 1.48(b) (herein treated as PETITION TO DELETE CORRECTLY NAMED PERSON WHO IS NOT INVENTOR OF INVENTION NOW BEING CLAIMED) filed June 06, 2005 to correct inventorship under 37 CFR 1.48(b) by deleting the names of Toshirou Kotooka, Toshiaki Saishoji, Daisuke Ebi, Kentaro Nakamura, Kengo Hayashi, Yoshinobu Hiraishi, Tadashi Hata, Shigeki Kawashima, Makoto Kamogawa, and Hiroshi Monden from the list of inventors of the instant application.

It is noted that the applicant has met the requirements of (1) a petition including a statement identifying each named inventor who is being deleted and acknowledging that the inventor's invention is no longer being claimed in the application; and (2) the fee set forth in 37 CFR 1.17(i).

The petition is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

Duane S. Smith
Supervisory Patent Examiner
Art Unit 1722
Technology Center 1700

Gerald T. Shekleton
Welsh & Katz
120 South Riverside Plaza
22nd Floor
Chicago, IL 60606-3913

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 3

JAMES A. WITHERSPOON
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

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MAR 1 4 2003
OFFICE OF PETITIONS

In re Application of :
Jay Philip Leighton et al :
Application No. 10/337,464 : NOTICE
Filed: January 7, 2003 :
Attorney Docket No. 109537/248373 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center 3700.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

EPSTEIN DRANGEL BAZERMAN & JAMES, LLP
60 EAST 42ND STREET
SUITE 820
NEW YORK NY 10165

In re Patent No. 6,773,794 :
Issue Date: August 10, 2004 :
Application No. 10/337,487 : ON PETITION
Filed: January 8, 2003 :
Attorney Docket No. FMT-1-1775-101 :

This is a decision on the petition under 37 CFR 1.378(c), filed September 26, 2008, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 12, 2008 (August 10, 2008 was a Sunday) 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 Denise Williams at (571)272-8930.

The patent file is being forwarded to Files Repository.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 7

CENTRAL COAST PATENT AGENCY
PO BOX 187
AROMAS, CA 95004

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MAR 17 2004

OFFICE OF PETITIONS

In re Application of :
Vladimir G. Golitsin, et al. :
Application No. 10/337,489 :
Filed: January 6, 2003 :
Attorney Docket No. P5173 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 24, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed March 7, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 8, 2003.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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John Lezdey
John Lezdey & Associates
Suite 302
4625 East Bay Drive
Clearwater, FL 33764

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SEP 2 0 2005

OFFICE OF PETITIONS

In re Application of Chubb :
Application No. 10/337,492 : Decision on Petition
Filing Date: January 7, 2003 :
For: Refrigerator Door Assembly :

This is a decision on the petition under 37 CFR 1.137(a), filed April 6, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

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 September 2, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned as of midnight on December 2, 2004. A Notice of Abandonment was mailed on January 3, 2005.

A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply,
(2) the petition fee,
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and
(4) a terminal disclaimer and fee *if* the application was filed on or before June 8, 1995 or *if* the application is a design application.

The instant petition lacks item (3).

The issue fee was paid one day late due to a clerical error by attorney Lezdey's secretary. The petition does not discuss the secretary's qualifications or experience. For example, had the secretary worked for Lezdey for years or merely days.

In order to show unavoidable delay, Lezdey should provide evidence to demonstrate the secretary was sufficiently trained and experienced with regard to docketing due dates such that Lezey's reliance upon the secretary represented the exercise of due care.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By 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

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 regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

John Lezdey
John Lezdey & Associates
Suite 302
4625 East Bay Drive
Clearwater, FL 33764

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MAR 0 3 2006

OFFICE OF PETITIONS

In re Application of Chubb :
Application No. 10/337,492 : Decision on Petition
Filing Date: January 7, 2003 :
For: Refrigerator Door Assembly :

This is a decision on the petition under 37 CFR 1.137(a), filed November 21, 2005, to revive the above-identified application. The petition is also filed in the alternative under 37 CFR 1.137(b).

The petition under 37 CFR 1.137(a) is **granted**.

The petition under 37 CFR 1.137(b) is **dismissed as moot**.

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 September 2, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned as of midnight on December 2, 2004. A Notice of Abandonment was mailed on January 3, 2005.

Petitioner has met the requirements under 37 CFR 1.137(a). Therefore, relief under 37 CFR 1.137(a) is proper.

Since the petition under 37 CFR 1.137(a) is granted, petitioner's request to have the petition considered in the alternative under 37 CFR 1.137(b) is dismissed as moot. No petition fee has been charged for the petition under 37 CFR 1.137(b).

The Office of Patent Publications will be informed of the instant decision so that it may take steps to issue the application as a patent.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

B. NOEL KIVLIN
MEYERTONS, HOOD, KIVLIN,
KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN TX 78767

COPY MAILED
JUN 29 2006
OFFICE OF PETITIONS

In re Application of :
Jay Kevin Osborn et al. :
Application No. 10/337,500 : ON PETITION
Filed: January 7, 2003 :
Attorney Docket No. 5681-61200 :

This is a decision on the petition filed June 15, 2006, to withdraw the holding of abandonment , which is treated under 37 CFR 1.181(b), in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue fee on or before June 10, 2005 as was required by the Notice of Allowance mailed March 10, 2005. This application therefore became abandoned on June 13, 2005. Accordingly, a Notice of Abandonment was mailed September 1, 2005.

The file record discloses that the Notice of Allowance was mailed to the address of record. However, petitioner contends that it was not received. In support, petitioner indicates that a search of the file revealed that the Notice was not received and submits copies of pages from the docketing system, wherein receipt of the Notice of Allowance would have been entered, had it been received to substantiate the claim. The statement and attachments corroborate non-receipt of the Notice of Allowance.

In view of the facts set forth in the petition, it is concluded that the Notice of Allowance was never received. Accordingly, the holding of abandonment is withdrawn. No petition fee is due and none will be charged.

This application is being forwarded to the Technology Center 2833 for a remailing of the Notice of Allowance and Notice of Allowability.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
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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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG IL 60196

In re Application of:
Shahab M.SAYEEDI
Application No. 10/337,519
Filed: January 6, 2003
For: **METHOD AND APPARATUS FOR REGISTRATION OF A MOBILE STATION IN A PACKET DATA COMMUNICATION SYSTEM**

DECISION
ACCEPTING PAPERS

This is in response to the petition filed on October 25, 2004, requesting that the Appeal Brief submitted to the Office on October 25, 2004 be accepted as having been timely filed in the subject application in response to the Notice of Appeal filed June 7, 2004.

Accompanying the petition is a copy of an Auto-Reply Facsimile Transmission report showing receipt by the Office of a 30 page document including an Appeal Brief. The report indicates a receipt date of August 5, 2004. This is a timely response to the Notice of Appeal filed June 7, 2004.

Consequently, the Appeal Brief submitted on October 25, 2004 is accepted as though timely filed. Any inconvenience caused petitioner is regretted.

The application file will be forwarded to the examiner for consideration of the Appeal Brief in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

1/8/08

Patent No. : 6747026
Inventor(s) : Torsten Hoffmann, Sonia Maria Polia, Patrick Schnider, Andrew Sleight
Issued : 1/13/04
Title : NK-1 RECEPTOR ACTIVE AMINE OXIDE PRODRUGS
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals that Claim 8, is printed in accordance with the record. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

Hoffmann- LaRoche Inc.
Patent Dept.
340 Kingsland Street
Nutley, NJ 07110

HR/CBN

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. 3

MAIL

MAR 2 4 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

DAVID NEWMAN CHARTERED
CENTENNIAL SQUARE
P.O. BOX 2728
LA PLATA, MD 20646-2728

In re Application of
Schilling

Application No. 10/337,555
Filed: January 7, 2003
For: VIDEO ON DEMAND USING MCMD AND TDM OR FDM

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on February 11, 2004.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys/agents of record are withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

CC: John Gabrysiak
Orlovsky, Moody, Schaaff & Gabrysiak
187 Highway 36
West Long Branch, NJ 07764

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

ICE MILLER
ONE AMERICAN SQUARE
BOX 82001
INDIANAPOLIS IN 46282

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MAR 31 2005

OFFICE OF PETITIONS

In re Application of
Gopalakrishnan Sethuraman et al.
Application No. 10/337,563
Filed: January 7, 2003
Attorney Docket No.: 05111.0139
Title: METHODS OF PREPARING GYPSUM WALLBOARDS CONTAINING STYRENE BUTADIENE LATEX ADDITIVE

DECSION ON PETITION UNDER 37 C.F.R. §1.137(A)

This is a decision on the petition filed December 6, 2004, pursuant to 37 C.F.R. §1.137(a) [1], to revive the above-identified application.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed June 17, 2004, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time are permitted for transmitting issue fees[2]. Accordingly, the above-identified application became abandoned on September 18, 2004.

With the instant petition, Petitioner has supplied the fee associated with the filing of a petition under 37 C.F.R. §1.137(a), the publication fee, the issue fee, a statement of facts, two affidavits, a copy of a letter, and a submission which is purported to be a docket report.

1 A grantable petition pursuant to 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 as set forth in § 1.17(l);
(3) A showing to 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 was unavoidable;
(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).

Petitioner has met requirements (1) and (2) above. Requirement (4) does not apply.

Regarding the third requirement above, the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR §1.137(a).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard

35 USC §133 states, "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." (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."[3]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[4]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business[5]?"

Nonawareness of a PTO rule will not constitute unavoidable delay[6].

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3 Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA)1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir. 1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg, 849 F.2d 1422, 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."

4 Id.

5 See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

6 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)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard

The burden of showing the cause of the delay is on the person seeking to revive the application[7].

A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice, or the MPEP is not rendered "unavoidable" due to either the applicant's reliance upon oral advice from USPTO employees or the USPTO's failure to advise the applicant to take corrective action[8].

The regulations and portions of the MPEP relevant to the abandonment of this application

37 C.F.R. § 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.

37 CFR 1.33: Correspondence respecting patent applications, reexamination proceedings, and other proceedings.

(a) Correspondence address and daytime telephone number . When filing an application, a correspondence address must be set forth in either an application data sheet (§ 1.76), or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing. If no correspondence address is specified, the Office may treat the mailing address of the first named inventor (if provided, see § § 1.76(b)(1) and 1.63(c)(2)) as the correspondence address. The Office will direct all notices, official letters, and other communications relating to the application to the correspondence address. The Office will not engage in double correspondence with an applicant and a registered attorney or agent, or with more than one registered attorney or agent except as deemed necessary by the Commissioner. If more than one correspondence address is specified, the Office will establish one as the correspondence address. For the party to whom correspondence is to be addressed, a daytime telephone number should be supplied in a clearly identifiable manner and may be changed by any party who may change the correspondence address. The correspondence address may be changed as follows:

(1) Prior to filing of § 1.63 oath or declaration by any of the inventors . If a § 1.63 oath or declaration has not been filed by any of the inventors, the correspondence address may be changed by the party who filed the application. If the application was filed by a registered attorney or agent, any other registered practitioner named in the transmittal papers may also change the correspondence address. Thus, the inventor(s), any registered practitioner named in the transmittal papers accompanying the original application, or a party that will be the assignee who filed the application, may change the correspondence address in that application under this paragraph.

(2) Where a § 1.63 oath or declaration has been filed by any of the inventors. If a § 1.63 oath or declaration has been filed, or is filed concurrent with the filing of an application, by any of the inventors, the correspondence address may be changed by the parties set forth in paragraph (b) of this section, except for paragraph (b)(2).
(b) Amendments and other papers . Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered attorney or agent of record appointed in compliance with § 1.34(b);

---

earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

7 Id.

8 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);

(3) An assignee as provided for under § 3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

(c) All notices, official letters, and other communications for the patent owner or owners in a reexamination proceeding will be directed to the attorney or agent of record (see § 1.34(b)) in the patent file at the address listed on the register of patent attorneys and agents maintained pursuant to § § 10.5 and 10.11 or, if no attorney or agent is of record, to the patent owner or owners at the address or addresses of record. Amendments and other papers filed in a reexamination proceeding on behalf of the patent owner must be signed by the patent owner, or if there is more than one owner by all the owners, or by an attorney or agent of record in the patent file, or by a registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a). Double correspondence with the patent owner or owners and the patent owner 's attorney or agent, or with more than one attorney or agent, will not be undertaken. If more than one attorney or agent is of record and a correspondence address has not been specified, correspondence will be held with the last attorney or agent made of record.

(d) A "correspondence address " or change thereto may be filed with the Patent and Trademark Office during the enforceable life of the patent. The "correspondence address " will be used in any correspondence relating to maintenance fees unless a separate "fee address " has been specified.

See § 1.363 for "fee address " used solely for maintenance fee purposes.

37 CFR 1.311: Notice of Allowance.

Notice of Allowance.

(a) If, on examination, it appears that the applicant is entitled to a patent under the law, a notice of allowance will be sent to the applicant at the correspondence address indicated in 37 C.F.R. § 1.33. The notice of allowance shall specify a sum constituting the issue fee which must be paid within three months from the date of mailing of the notice of allowance to avoid abandonment of the application. The sum specified in the notice of allowance may also include the publication fee, in which case the issue fee and publication fee (§ 1.211(f)) must both be paid within three months from the date of mailing of the notice of allowance to avoid abandonment of the application. This three-month period is not extendable.

(b) An authorization to charge the issue fee or other post-allowance fees set forth in 37 C.F.R. §1.18 to a deposit account may be filed in an individual application only after mailing of the notice of allowance. The submission of either of the following after the mailing of a notice of allowance will operate as a request to charge the correct issue fee to any deposit account identified in a previously filed authorization to charge fees:
   (1) An incorrect issue fee; or
   (2) A completed Office-provided issue fee transmittal form (where no issue fee has been submitted).

[47 FR 41279, Sept. 17, 1982, effective Oct. 1, 1982; para. (b) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; revised, 65 FR 57024, Sept. 20, 2000, effective Nov. 29, 2000; para. (a) revised, 66 FR 67087, Dec. 28, 2001, effective Dec. 28, 2001]

MPEP 601.03 states, in part:

Where an attorney or agent of record (or applicant, if he or she is prosecuting the application pro se) changes his or her correspondence address, he or she is responsible for promptly notifying the U.S. Patent and Trademark Office of the new correspondence address (including ZIP Code). The notification should also include his or her telephone number.

MPEP 711.03(c) states, in part:

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 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. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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).

Two additional procedures are available for reviving an application that has become abandoned due to a failure to reply to an Office Action: (1) a petition under 37 CFR 1.137(a) based upon unavoidable delay; and (2) a petition under 37 CFR 1.137(b) based on unintentional delay.

MPEP 1306 states, in part:

The issue fee is due 3 months from the date of the Notice of Allowance. The amount of the issue fee is shown on the Notice of Allowance. However, because the amount of the issue fee due is determined by the fees set forth in 37 CFR 1.18 which are in effect as of the date of submission of payment of the issue fee, the amount due may differ from the amount indicated on the Notice of Allowance. Accordingly, applicants are encouraged, at the time of submitting payment of the issue fee, to determine whether the amount of the issue fee due has changed. The amounts due under 35 U.S.C. 41(a) are reduced by 50 per centum for small entities.

Application of the standard to the current facts and circumstances

Unfortunately, petitions filed under 37 C.F.R. §1.137(a) (where the cause of the abandonment is characterized as "unavoidable") have a very stringent standard associated with them.

With the instant petition, Petitioner has set forth that at one point, he was employed by the law firm of Howrey and Simon, which was also the former address of record. Petitioner then left the firm, but failed to timely submit a change of address. On June 10, 2004, he conducted a telephonic interview with the Examiner which resulted in the acceptance of a proposed amendment. Petitioner, knowing that he was not located at the address of record, requested that

a copy of the Notice of Allowance be sent to him via facsimile transmission. Petitioner failed to receive a copy of this notice, and after not receiving the fax, did not contact the PTO to make a second request for the fax to be sent to him. On June 17, 2004, the Notice of Allowance was properly sent to the address of record. One month later, Petitioner submitted a change of address via facsimile transmission on July 20, 2004.

Petitioner asserts that he did not receive a copy of the Notice of Allowance until it was forwarded on him on September 30, 2004 by his supervisor, who received it from Howrey and Simon on that same day.

Petitioner's arguments have been considered, and they have been deemed to be unpersuasive for the following reasons.

First, Petitioner has attempted to place the abandonment on the instant application on the fact that he relied on the Examiner's alleged oral promise to fax a copy of the Notice of Allowance to him, and the Examiner failed to do so. As set forth in 37 C.F.R. §1.2, no attention will be paid to any alleged oral understanding in relation to which there is disagreement or doubt.

Secondly, Petitioner failed to treat this application as his most important business. A Petitioner acting in relation to his most important business would have changed the correspondence address in a more timely manner – especially if he was aware that important correspondence was about to be mailed to an address that was no longer valid. The electronic record shows that a request was made to change the correspondence address on July 20, 2004 via fax. It is not clear what prevented the Petitioner from making this submission until such time.

As set forth in 37 C.F.R. §1.33, all communications relating to the application are sent to the correspondence address. The Notice was mailed to the proper location – the location which the inventors had directed the Office to send all correspondence to. Had Petitioner treated this application as his most important business, he would have properly updated the power of attorney when both he and his portable transferred locations, the Notice would have been mailed to the new address of record, and this application would likely not have gone abandoned.

The abandonment did not stem from the PTO's failure to transmit the notice via fax, but rather from Petitioner's failure to adhere to MPEP 601.03. Petitioner cannot commit an error which stems from his failure to act in accordance with a portion of the MPEP, and later characterize this mistake as unavoidable. This mistake on the part of the petitioner might constitute an unintentional delay in prosecution, but it certainly does not rise to the level of unavoidable.

Furthermore, Petitioner operated under the assumption that the Examiner would fax the notice to him. If Petitioner expected to receive this fax, why did he not contact the Examiner after several days had passed and no fax was received?

Petitioner has stated that Howrey and Simon did not forward the notice of allowance to his new firm until September 30, 2004. If this is the case, why is the letter dated June 24, 2004, just seven days after the notice of allowability was sent? If Petitioner was expecting the notice to be forwarded to him from his former employer, why did not call them when it never arrived?

Regarding the submission which is purported to constitute a mail log, the printout fails to establish non-receipt of the notice of allowance, in that it does not serve as a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed. The printout supplied contains the serial number, title, and filing date of the instant application, which appears to indicate that this printout is a listing of papers associated with the present application. A docket report is a mail log, recorded by the person who receives all incoming mail. A docket report should show all incoming mail received during the relevant time period. As the printout merely concerns the present application, it fails to show the correspondence at issue was not received and merely misplaced and filed with another file.

Moreover, even if Petitioner could use the submission to establish that the notice of allowance was not received, it could not establish that the delay was unavoidable, pursuant to the discussion above.

Alternate venue

Petitioner may also wish to consider filing a petition under the unintentional standard, 37 CFR §1.378(b)[9]. Petitioner should be made aware that although the surcharge is significantly higher, the standard associated with a petition filed under this section is far less stringent than the standard associated with a delay asserted to be "unavoidable". A form for this petition may be located at http://www.uspto.gov/web/forms/sb0064.pdf

Conclusion

On the facts presented, this situation fails to constitute unavoidable delay. These facts might constitute an unintentional delay in prosecution, but it certainly does not rise to the level of unavoidable. It is clear that through the exercise of reasonable diligence, the situation which caused the abandonment of this application could have been avoided. Therefore, it is determined that the petitioner cannot establish 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 which is required in order for relief to be granted under 37 CFR §1.137(a).

Consequently, the petition 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. 1.137(a) *(or 1.137(b), if applicable)*". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski.

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9 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.

To help assure prompt and proper attention to your response, please see Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for further information on how to assist the Office in delivering your submission to the correct location. The Petitioner may wish to consider telephoning the undersigned one month after the submission is made to confirm that the documents were properly delivered.

Any renewed petition may be submitted by mail[10], hand-delivery[11], or facsimile[12].

The application file will be retained in the Office of Petitions for two (2) months.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

10 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

11 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

12 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned, which could be as much as one month.

UNITED STATES 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

ICE MILLER
ONE AMERICAN SQUARE
BOX 82001
INDIANAPOLIS IN 46282

COPY MAILED

MAY 0 3 2005

OFFICE OF PETITIONS

In re Application of
Gopalakrishnan Sethuraman et al.
Application No. 10/337,563
Filed: January 7, 2003
Attorney Docket No.: 05111.0139
Title: METHODS OF PREPARING GYPSUM WALLBOARDS CONTAINING STYRENE BUTADIENE LATEX ADDITIVE

DECSION ON PETITION UNDER 37 C.F.R. §1.137(B)

This is a decision on the petition under 37 CFR §1.137(b)[1], filed April 20, 2005, to revive the above-identified application.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed June 17, 2004, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time are permitted for transmitting issue fees[2]. Accordingly, the above-identified application became abandoned on September 18, 2004.

A petition under 37 C.F.R. §1.137(a) was filed on December 6, 2004, and was dismissed via the mailing of a decision on March 31, 2005.

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).

With the former petition, Petitioner supplied the publication fee and the issue fee. With the present petition, Petitioner has supplied the petition fee and the proper statement of unintentional delay.

Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). As such, the petition is **GRANTED**.

After this decision is mailed, the application will be forwarded to the Office of Patent Publications 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.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

AEH

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

jc951 U.S. PTO
10/337569
01/07/03

Paper No. 8

LEYDIG VOIT & MAYER LTD
TWO PRUDENTIAL PLAZA
SUITE 4900
180 NORTH STETSON STREET
CHICAGO IL 60601-6780

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AUG 2 4 2001

OFFICE OF PETITIONS

In re Application of
Specht et al.
Application No. 09/514,711
Filed: February 28, 2000
Attorney Docket No. 203947
For: MOPS AND MOP COMPONENTS

DECISION ACCORDING
STATUS UNDER
37 CFR 1.47(a)

This is in response to the reconsideration petition under 37 CFR 1.47(a), filed August 16, 2001.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petition signed by Attorney Hoover establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for issuance of a corrected filing receipt. Thereafter the application will be returned to Technology Center 1700 for further processing.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

LEYDIG, VOIT & MAYER
RECEIVED
AUG 2 8 2001
PAT/TM Due Date noted

DNG

LAH

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 9

IC951 U.S. PTO
10/337569
01/07/03

EDGAR WAGNER
3804 NORTH TRIPP AVENUE
CHICAGO, IL 60641

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AUG 2 4 2001

OFFICE OF PETITIONS

In re Application of
Specht et al.
Application No. 09/514,711
Filed: February 28, 2000
Attorney Docket No. 203947
For: MOPS AND MOP COMPONENTS

LETTER

Dear Mr. Wilson:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTORNEY OF RECORD: LEYDIG VOIT & MAYER LTD
TWO PRUDENTIAL PLAZA
SUITE 4900
180 NORTH STETSON STREET
CHICAGO IL 60601-6780

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

APR 2 0 2006

Technology Center 2100

B. Noel Kivlin
Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.
P.O. Box 398
Austin, TX 78767

In re Application of: Emrys WILLIAMS
Application No. 10/337,580
Attorney Docket No. 5681-53700
Filed: 01/7/2003
For: METHOD AND APPARATUS FOR PERFORMING ERROR CORRECTION CODE (ECC) CONVERSION

DECISION ON PETITION FOR SUPERVISORY REVIEW REGARDING FINALITY OF RESTRICTION REQUIREMENT UNDER 37 CFR §1.144

This is in response to the petition filed on November 22, 2005, under 37 CFR 1.144 requesting supervisory review of the finality of a restriction requirement mailed on October 18, 2005. Note, a petition under 37 CFR §1.144 will not be considered if reconsideration of the requirement was not previously requested.

The petition is **DISMISSED as MOOT**.

RECENT PROSECUTION HISTORY

(1) A restriction requirement was mailed on August 2, 2005, in which claims 1-27 were subject to restriction requirement.

(2) On August 22, 2005 a response to the restriction requirement was filed in which applicant provisionally elected with traverse. Applicant provided reasons in support of the traversal, including a discussion of M.P.E.P. § 806.05() regarding a proper restriction for inventions disclosed as process and apparatus for its practice.

(3) On October 18, 2005, the Examiner issued a first office action on the merits, in response to Applicant's election, wherein claims 14-27 were withdrawn. This office action determined the requirement for restriction to be proper and therefore made the requirement FINAL.

(4) On November 22, 2005, the instant petition was filed by Petitioner, under 37 CFR §1.144.

(5) On April 10, 2006, the requirement for restriction was Withdrawn and a Non-Final Office action was issued.

RELIEF REQUESTED

The instant petition under 37 CFR § 1.144 requests the following relief:

(1) withdrawal of the restriction requirement of August 2, 2005; and

(2) as a result of item (1), examination of all pending claims.

BASIS

Petitioner provides various arguments in support of the withdrawal of the restriction requirement including reference to M.P.E.P. § 806.05(e), which states:

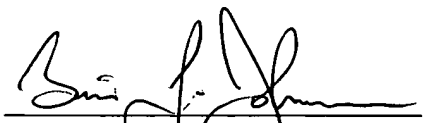
> ** Process and apparatus for its practice can be shown to be distinct inventions, if either or both of the following can be shown: (A) that the process as claimed can be practiced by another materially different apparatus or by hand; or (B) that the apparatus as claimed can be used to practice another * materially different process.
> < The burden is on the examiner to provide reasonable examples that recite material differences.
> ** If applicant proves or provides convincing argument that there is no material difference or **>that< a process * cannot be performed by hand (if examiner so argued), the burden is on the examiner to document another materially different process or apparatus or withdraw the requirement.

CONCLUSION

Subsequent to a decision on the instant petition regarding the propriety of the restriction requirement in the instant application, the Examiner has WITHDRAWN the requirement and issued a new Non-Final Office action on the merits, treating all pending claims.

Accordingly, the petition is **DISMISSED as Moot.**

Any inquiries related to this decision may be directed to the undersigned at (571) 272-3595.



Brian L. Johnson, SPRE
Technology Center 2100
Computer Architecture, Software, and Information Security

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DEC 0 9 2004

OFFICE OF PETITIONS

ABELMAN, FRAYNE & SCHWAB
150 EAST 42ND STREET
NEW YORK, NY 10017

In re Application of :
Joseph Horta, et al. :
Application No. 10/337,597 : ON PETITION
Filed: January 7, 2003 :
Attorney Docket No. 205,888 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to Files Repository.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-7-06

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No.: 7119106 B2 (10/337602)

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.

Continuation Data

Eva James

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

_____ 1625
SPE **Art Unit**

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FEB 24 2004

#8

G. Byron Stover
USDA-ARS-OTT
5601 Sunnyside Ave
Room 4-1194
Beltsville, MD 20705-5131

In re Application of	:	
Michael J. Haas et al	:	
Serial No.: 10/337,604	:	PETITION DECISION
Filed: January 7, 2003	:	
Attorney Docket No.: 0003.02	:	

This is in response to applicant's "Petition Under 37 CFR 1.313(a) and 1.181 To Withdraw Application From Issue" filed December 30, 2003. The delay is regretted.

Applicant's statement has been considered. It is noted that the Issue Fee has been timely paid. This communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR 1.313(a).

Applicant's petition is **GRANTED**.

The instance application is being withdrawn from issue . The application will be forwarded to the examiner for consideration of Information Disclosure Statement filed on September 15, 2003.

Should there be any questions regarding this decision, please contact Cecilia Tsang by mail addressed to Director, Technology Center Alexandria, VA 22313-1450 or by telephone at (571)-272-0562 or by facsimile transmission at (571)-273-0562.

Bruce Kisliuk
Director, TC1600

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ACCENTURE
C/O VEDDER PRICE KAUFMAN
& KAMMHOLZ, P.C.
222 NORTH LASALLE STREET
CHICAGO, IL 60601

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MAR 2 8 2007

OFFICE OF PETITIONS

In re Application of

Fano, et al. :

Application No. 10/337,609 : DECISION ON PETITION

Filed: January 7, 2003 :

Attorney Docket No. 33836.00.0038

This is a decision on the petition under 37 CFR 1.137(b), filed January 16, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply in a timely manner to the final Office action mailed May 3, 2006 which set a shortened statutory period for reply of three (3) months from its mailing date. A response was filed on June 29, 2006. An Advisory Action mailed November 6, 2006, advised petitioner that the response of June 29, 2006, failed to place the application in condition for allowance. No further responses were filed within the allowable period. The application became abandoned on August 4, 2006.

The Request for Continued Examination filed January 16, 2007, is noted and made of record

The application is being forwarded to Technology Center 2100, GAU 2162 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

Vedder Price PC
222 NORTH LASALLE STREET
CHICAGO, IL 60601

Mail Date: 04/21/2010

Applicant	: Andrew E. Fano	: DECISION ON REQUEST FOR
Patent Number	: 7593915	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/337,609	: 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 **573** 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.

OCT 29 2004
PATENT & TRADEMARK OFFICE

PTO/SB/83 (09-04)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/337,616
Filing Date	01/06/2003
First Named Inventor	Juan M. Posada
Art Unit	1764
Examiner Name	Manoharan, Virginia
Attorney Docket Number	HM-75823

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Approved FEB 23 2005
Jacqueline M. Stone, Director
Technology Center 1700

Please withdraw me as attorney or agent for the above identified patent application, and

☐ all the attorneys/agents of record.

☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or

☑ the attorneys/agents associated with Customer Number 24982

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: Non-payment of attorney's fees; non-response to written communications; please also note there is no outstanding deadline for response regarding the above application.

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	Juan M. Posada				
Address	688 North Ventura Avenue				
City	Ventura	State	CA	Zip	93001
Country	USA				
Telephone	(805) 648-5311	Fax	(805) 648-5793		

Signature	Kenneth J. Hovet		
Name	Kenneth J. Hovet	Registration No.	25,988
Date	October 25, 2004	Telephone No.	(805) 988-8346

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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1900 EAST 9TH STREET, NATIONAL CITY CENTER
24TH FLOOR,
CLEVELAND, OH 44114

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OFFICE OF PETITIONS

In re Application of :
Hong-Son Ryang :
Application No. 10/337,624 : ON PETITION
Filed: January 7, 2003 :
Attorney Docket No. APSP101US :

This is a decision in response to the petition, filed May 3, 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 dismissed because it lacks the required petition fee pursuant to 37 CFR 1.17(m).

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)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks items 1 and 2.

It is noted that a Notice of Allowability and a Notice of Allowance were mailed in this application on April 23, 2004, which did not require the submission of a publication fee. The due date for payment of the issue fee is on or before July 23, 2004. To date, no issue fee has

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[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

been paid. In view of the request to rescind the nonpublication request, a publication fee of $300 is required. Consequently, the $300 publication fee, as well as the $665 issue fee if not already paid, must be submitted with any request for reconsideration of this petition. Petitioner must also state the application number and the date the application was filed in a foreign country, or under a multinational treaty that required publication of applications eighteen months after filing.

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
220 20th Street S.
Customer Window, Mail Stop PETITION
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

Any questions concerning this matter may be directed to the undersigned at (703) 305-9220.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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COMMISSIONER FOR PATENTS
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1900 EAST 9TH STREET, NATIONAL CITY CENTER
24TH FLOOR,
CLEVELAND, OH 44114

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OFFICE OF PETITIONS

In re Application of :
Hong-Son Rayang :
Application No. 10/337,624 :
Filed: January 7, 2003 :
Attorney Docket No. APSP101US :

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 30, 2004, to revive the above-identified application.

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 January 7, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (571) 272-3204.

This application is being referred to the Office of Publications for further processing.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

FOLEY & LARDNER LLP
111 HUNTINGTON AVENUE
26TH FLOOR
BOSTON MA 02199-7610

In re Patent No. 7,454,494	
Hedayat et al.	
Issue Date: November 18, 2008	
Application No. 10/337,653	DECISION ON REQUEST FOR
Filed: January 7, 2003	RECONSIDERATION OF
Attorney Docket No. 082191-01111	PATENT TERM ADJUSTMENT
Title: Apparatus and Method For Actively Analyzing A Data Packet Delivery Path	

This is in response to the "Request for Reconsideration of Patent Term Adjustment Under 37 CFR §1.705" filed December 15, 2008. This petition will be treated under 37 CFR 1.705(d).

The request for reconsideration of patent term adjustment is **DISMISSED**.

On November 18, 2008, the above-identified application matured into US Patent No. 7,454,494 with a patent term adjustment of 438 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under 35 U.S.C. §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that a portion of the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), 447 of the 481 days, does not overlap with the 708 day period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), as these periods do not occur on the same day.

Thus, patentees request that the determination of patent term adjustment be increased by 447 days to a total of eight hundred eighty-five (885) days.

The 481 day period is calculated based on the application having been filed under 35 U.S.C. §111(a) on January 7, 2003, and a request for continued examination (RCE) having being filed on May 3, 2007. The filing of a RCE cuts-off the applicants' ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment. 37 CFR § 1.703(b)(1)

Accordingly, the period of adjustment under § 1.702(b) is 481 days, counting the number of days beginning on January 8, 2006 and ending on May 3, 2007.

The 705 day period is for failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to § 1.702(a)(1). A non-final Office action was mailed on February 10, 2006, which is 14 months and 705 days after the application was filed on January 7, 2003. An additional 3 day period is for failure by the Office to respond to a reply under 35 U.S.C. 132 within four months, pursuant to 37 CFR § 1.703(a)(2).

Under 37 CFR § 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR §1.702 reduced by the period of time equal to the period of time during which applicants failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of applicant delay. The period of reduction of 270 days for applicant delay is not in dispute.

Patentees agree that the total period of Office delay is the sum of the period of Three Years Delay terminated by the filing of a RCE (481 days) and the period of Examination Delay (708 days) to the extent that these periods of delay are not overlapping. Patentees contend that 34 days of the period of delay of 708 days were overlapping running from January 7, 2006 to February 10, 2006.

Accordingly, patentees submit that the total period of Office Delay is 1189 days, which is the sum of the period of Three Year Delay (481 days) and the period of Examination Delay (708 days), reduced by the period of overlap (34 days). As such, patentees assert entitlement to a patent term adjustment of 885 days (481 +708 reduced by 34 overlap -270 for applicant delay).

The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of period of adjustment of 708 days is correct. At issue is whether patentees should accrue 447 days of patent term adjustment (adjusted for overlap, per patentee's calculations) for the Office taking in excess of three years to issue the patent, as well as 708 days for Office failure to take certain actions within specified time frames (or examination delay).

The Office contends that 481 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of applicants. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application. Treating the relevant period as starting on January 8, 2006, the date that is 3 years after the actual filing date of the application, is incorrect.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, January 7, 2003 to November 18, 2008. 708 days of patent term adjustment were

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

accorded prior to the issuance of the patent for the Office failing to respond within a specified time frame. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the 708 days of Office delay and the 270 days of applicant delay and the permissible timeframes for taking action, as of the filing of the request for continued examination, this application was pending 3 years and 481 days. In other words, the 708 days of delay contributed to the over three year pendency. The issuance of the patent was delayed by 708 days, not 708 + 481 days. The Office did not delay 708 days and then an additional 481 days. Entry of both periods is not warranted. 708 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 481 days for over three year pendency. Accordingly, the Office properly determined that the 481 days for Office delay in issuing the patent overlapped with the 708 days. Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

In view thereof, the Office affirms that the correct revised determination of patent term adjustment at the time of the issuance of the patent is 438 days (708 - 270).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Charlema Grant, Petitions Attorney, at (571) 272-3215.

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

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MILLER, CANFIELD, PADDOCK & STONE P.L.C.
c/o ROBERT KELLEY ROTH
SUITE 2500
150 WEST JEFFERSON AVE.
DETROIT, MI 48226

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OFFICE OF PETITIONS

In re Application of :
Wong :
Application No. 10/337,666 : DECISION ON PETITION
Filed: January 7, 2003 : TO WITHDRAW
Attorney Docket No. 121707-00003 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 3, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Robert K. Roth on behalf of all attorneys of record.

All attorneys/agents associated with this application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request not to change the correspondence address of record is not acceptable.

In view of the present decision, Miller, Canfield, Paddock & Stone, P.L.C. 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). All future communications from the Office will be directed to the first named signing inventor or the assignee of the entire interest under 37 C.F.R. §3.71 at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed September 18, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: KWOK D. WONG
41690 SLEEPY HOLLOW DRIVE
NOVI, MI 48337

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/337,666	01/07/2003	Kwok D. Wong	121707/2

CONFIRMATION NO. 9801

OC000000020807812

OC000000020807812

Miller, Canfield, Paddock and Stone P.L.C.
c/o Robert Kelley Roth
Suite 2500
150 West Jefferson Ave.
Detroit, MI 48226

Date Mailed: 10/12/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/03/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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THOMAS M. SPEAR, JR.
P.O. BOX 1274
BEND, OR 97709-1274

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OFFICE OF PETITIONS

In re Application of :
Michael David Snow :
Application No. 10/337,669 : DECISION ON PETITION
Filed: January 6, 2003 :
Attorney Docket No. 54578 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 1, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Fee(s) Due mailed October 21, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 22, 2005. A Notice of Abandonment was mailed April 18, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over three years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on January 22, 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 Mr. Glenn C. Brown was counsel of record at the time of abandonment, he should explain why this application became abandoned while it was under his control and what efforts were made to further reply of itself and with whom this matter was discussed outside of Glenn Brown P.C.. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), Mr. Brown and whoever else was involved with

this application at the time of abandonment. Statements are required from any and all persons then at Glenn C. Brown, P.C., and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over three years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at Glenn C. Brown, P.C., and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THOMAS M. SPEAR, JR.
P.O. BOX 1274
BEND OR 97709-1274

COPY MAILED

NOV 0 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Michael David Snow	:	
Application No. 10/337,669	:	ON PETITION
Filed: January 6, 2003	:	
Attorney Docket No. 54578	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed October 31, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely pay the issue and publication fees on or before January 21, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed October 21, 2004, which set a statutory period of reply of three (3) months. Accordingly, the application became abandoned on January 22, 2005. A Notice of Abandonment was mailed April 18, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

The instant petition lacks item(s) (3).

The renewed petition includes an affidavit by the sole inventor, Michael David Snow. Mr. Snow states, "I also recall several discussions with Mr. Brown after I paid him the issuance fee, in those discussion Mr. Brown never told me that the above patent had been abandoned and in fact told

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[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

[2] See MPEP 711.03(c)(III)(C) and (D).

me that the patent was issued." Mr. Snow has not to date submitted proof of payment of the issuance fees or receipt of funds. Nor did Mr. Snow submit any correspondence between him and Mr. Brown during the period of time between the abandonment of January 22, 2005 until the winter of 2008 whereby Mr. Snow received a letter from Mr. Brown. A copy of this letter was not submitted with the renewed petition. Further, Mr. Snow's affidavit also includes the statement, "From that period forward, I was told by Mr. Brown that the patent was issued." This statement clearly indicates that there was contact between Mr. Snow and Mr. Brown concerning the issuance of the application. Therefore, it is unclear what Mr. Snow knew from the time the application went abandoned on January 22, 2005 until winter 2008.

Petitioner may wish to pursue reinstatement of the patent under the unavoidable provisions of 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(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(d).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window 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 Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
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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www.uspto.gov

THOMAS M. SPEAR, JR.
P.O. BOX 1274
BEND OR 97709-1274

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MAR 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Michael David Snow	:	
Application No. 10/337,669	:	DECISION ON PETITION
Filed: January 6, 2003	:	
Attorney Docket No. 54578	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed February 2, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 21, 2005, as required by the Notice of Allowance and Fee(s) Due mailed October 21, 2004. Accordingly, the date of abandonment of this application is January 22, 2005. A Notice of Abandonment was mailed April 18, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720.00 and publication fee of $300.00 (previously paid on August 1, 2008); (2) the petition fee of $770.00 (previously paid on August 1, 2008); 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.

In view of the above, the Petition for Revival of an Application for Patent Abandoned Unavoidably under 37 CFR 1.137(a) submitted concurrently is unnecessary.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 3

MAILED

AUG 2 6 2003

Technology Center 2100

Jo Katherine D'Ambrosio
D'Ambrosio & Associates
Suite 930
2925 Briar Park Drive
Houston, Texas 77042

In re Application of: G. D. Haunschild et al.)
Application No. 10/337,681)
Filed: January 8, 2003)
For: ONLINE REGULATORY)
COMPLIANCE AND METHOD FOR)
FACILITATING COMPLIANCE)

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(c) AND MPEP § 708.02 (V): ENVIRONMENTAL QUALITY

This is a decision on the petition, filed March 25, 2003 under 37 C.F.R. §1.102(c) and M.P.E.P. §708.02(V): Environmental Quality, to make the above-identified application special.

The Petition is **DISMISSED**.

A grantable petition under 37 C.F.R. §1.102(c), and M.P.E.P. §708.02, Section V, must be accompanied by the showing that the application is for an invention which will materially enhance the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining natural elements, i.e., air, water, and soil. A petition under M.P.E.P. § 708.02, Section V, should be accompanied by statements under 37 C.F.R. §1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office explaining how the invention materially contributes to the restoration or maintenance of one of these life-sustaining elements. No fee for such a petition is required. (See 37 C.F.R. §1.102(c) and M.P.E.P. §708.02(V))

Applicants state that their invention, "allows corporations and small business owners to efficiently and responsibly assure compliance with environmental regulations".

The relevant portion of 37 C.F.R. §1.102(c) states: ".. or that the invention will materially enhance the quality of the environment". That is, the invention must have a substantial direct impact on the quality of the environment.

Applicant's showing does not establish that the application is for an invention which will materially enhance the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining natural elements, i.e., air, water, and soil. The invention as characterized by applicant is directed to an *database query system* In particular, this application is directed to a

repository of regulatory information coupled to an interface which allows users to identify compliance requirements. A hoped for byproduct of this system is that ease of ascertaining the requirements will result in greater compliance. However, even if this were to result, this incidental byproduct is not adequate to meet the requirement of the section cited above as it does not directly or materially enhance the environment.

Accordingly, the Petition is **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

If the petitioner desires further review of this Decision, applicant should consider filing a Request for Reconsideration within 2 months of the mailing date of this Decision.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 306-4160

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/22/07

TO SPE OF : ART UNIT 1624 10/337,692

SUBJECT : Request for Certificate of Correction on Patent No.: 6992216

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.

- [X] **Approved** — ✓ **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

ENTER THE C of C.

Joseph K. McKane

JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

1624

SPE — Art Unit

~~JAMES O. WILSON~~

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 9

SLATER & MATSIL, L.L.P.
17950 PRESTON RD, SUITE 1000
DALLAS TX 75252-5793

MAIL

FEB 0 2 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
RONALD L. MEYER :
Application No. 10/337,696 :
Filed: January 1, 2003 :
For: ACOUSTIC ANTI-TRANSIENT-MASKING TRANSFORM SYSTEM FOR COMPENSATING EFFECTS OF UNDESIRED VIBRATIONS AND A METHOD FOR DEVELOPING THEREOF :

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record filed on Sep. 22, 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.

Upon review, the requesting attorney(s)/agent(s) are not of record in this application file. Consequently, the petition is **DISMISSED AS MOOT**, and the request for change of correspondence address is **DENIED**.

A courtesy copy of this decision will be sent to the address listed below. However, all future correspondence will be sent to the above listed address until such a time as applicant properly notifies the U.S. Patent and Trademark Office of a change of address.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

cc: David H. Hitt
Hitt Gaines & Boisbrun, P.C.
P.O. Box 832570
Richardson, Texas 75083

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

UR

MAR 31 2003

PAPER NO. 3

In re Application of
Joseph L. Owades
Serial No: 10/337,705
Filed: January 07, 2003
For: METHOD FOR TREATING FOODS AND BEVERAGES TO HIDE ODOR OF TRANS-2-NONENAL AND FOODS AND BEVERAGES SO TREATED

PETITION UNDER
M.P.E.P. 708.02, IV

This is in response to the petition filed January 07, 2003, requesting that the above-identified application be granted Special Status under Section 708.02, IV of the MPEP and 37 CFR 1.102(c).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly, the petition is granted.

The petition is **GRANTED.**

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Norman P. Soloway
Hayes Soloway P.C.
130 W. Cushing Street
Tuscon, AZ 85701

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: APR 9 2004

spg
Paper Number #8

In re application of	:	
Owades Joseph	:	DECISION ON
Serial No. 10/337,705	:	PETITION
Filed: January 7, 2003	:	
For: METHOD FOR TREATING FOODS AND BEVERAGES TO HIDE ODOR OF TRAN-2-NONENAL AND FOODS AND BEVERAGES SO TREATED	:	

This is a response to the RESPONSE TO NOTICE OF ABANDONMENT AND CONDITIONAL PETITION TO REVIVE, filed December 8, 2003. The response asks that the abandonment, as set forth in the Notice of Abandonment of October 14, 2003, be withdrawn since the applicant did timely file a response on April 17, 2003.

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the USPTO application file reveals that applicant's response, AMENDMENT A and INFORMATION DISCLOSURE STATEMENT, were properly filed on April 17, 2003 in view of the fact that the originally filed papers having a Patent and Trademark Office date stamp of April 17, 2003 thereon and a properly completed Certificate of Mailing dated April 14, 2003 thereon have been located in the USPTO application file. Accordingly, any holding of abandonment is hereby vacated, and the application has been returned to pending status.

The application shall be forwarded to the examiner for processing and consideration of the papers filed April 17, 2003.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Attention: Norman P. Soloway
HAYES SOLOWAY P.C.
130 W. Cushing Street
Tucson AZ 85701

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Paper No. 3

JAMES A. WITHERSPOON
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

COPY MAILED

MAR 1 3 2003

OFFICE OF PETITIONS

In re Application of :
Jay Leighton et al :
Application No. 10/337,706 :
Filed: January 7, 2003 :
Attorney Docket No. 109537/248371 :

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 3700.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BINGHAM MCCUTCHEN, LLP
2020 K STREET, NW
BOX IP
WASHINGTON DC 20006

COPY MAILED

NOV 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Randall G. Bello et al	:	
Application No. 10/337,714	:	DECISION GRANTING PETITION
Filed: January 7, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 4191110233	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 9, 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 October 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) 272-3208.

This application is being referred to Technology Center AU 2165 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Hanify & King, P.C.
1875 K Street
Suite 707
WASHINGTON DC 20006

COPY MAILED
SEP 2 3 2008
OFFICE OF PETITIONS

In re Application of	:	
Bello et al.	:	
Application No. 10/337,714	:	DECISION ON PETITION
Filed: January 7, 2003	:	
Attorney Docket No. 5231-151-US01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 5, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fees on or before August 28, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed May 28, 2008 . Accordingly, the date of abandonment of this application is August 29, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440.00, (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) 272-3215.

This application is being referred to the Office of Data Management for processing into a patent.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LITTLE OPTICS LEGAL DEPARTMENT
9020 JUNCTION DRIVE
ANNAPOLIS JUNCTION MD 20701

COPY MAILED

JUL 16 2007

OFFICE OF PETITIONS

In re Application of :
Bret E. LITTLE :
Application No. 10/337,726 :
Filed: January 08, 2003 :
Attorney Docket No. **LO101mab** :

DECISION ON REQUEST FOR REVOCATION OF POWER OF ATTORNEY

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed April 05, 2007

The request is APPROVED.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

David Bucci
Petitions Examiner
Office of Petitions

cc: **NORTH WEBER & BAUGH LLP**
CAROTHERS, W. DOUGLAS
2479 E. BAYSHORE RD.
STE. 707
PALO ALTO, CA 94303

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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NORTH WEBER & BAUGH LLP
CAROTHERS, W. DOUGLAS
2479 E. BAYSHORE RD.
STE. 707
PALO ALTO CA 94303

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JUL 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Brent E. LITTLE	:	
Application No. 10/337,726	:	DECISION ON PETITION
Filed: January 08, 2003	:	
Attorney Docket No. **LO101mab**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 05, 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 File Missing Parts of Nonprovisional Application (Notice), mailed on April 14, 2003. The Notice set a shortened statutory period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 15, 2003.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the required fees, (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay. Accordingly, the reply to the notice of April 14, 2003 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results

in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to the Office of Initial Patent Examination.

David Bucci
Petitions Examiner
Office of Petitions

cc: **INFINERA CORPORATION**
1322 BORDEAUX DRIVE
LEGAL DEPT.
SUNNYVALE, CALIFORNIA 94089

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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MAR 16 2005

James R. Thein
2231 Crystal Drive, Suite 105
Arlington VA 22202

In re Application of :
Alexander S. Nudo, Sr. : DECISION PETITION
Serial No.: 10/337,728 :
Filed: January 8, 2003 :
For: Dental Cleaning Tool :

This is in response to applicants' petition filed February 23, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Richard Bertsch by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (703)273-0275.

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
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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

FAX RECEIVED

MAY 25 2005

OFFICE OF PETITIONS

In re Application of :
Thomas J. Ribarich :
Application No. 10/337,738 : ON PETITION
Filed: January 7, 2003 :
Attorney Docket No. IR-2435 DIV (2-3360) :

This is a decision on the petition under 37 CFR 1.313 (c)(2), filed May 16, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 30, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2821 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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United States Patent and Trademark Office
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HENRY L. EHRLICH - WINSTEAD SECHREST & MINICK
2400 BANKONE CENTER
910 TRAVIS STREET
HOUSTON TX 77002

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APR 22 2005

OFFICE OF PETITIONS

In re Application of	:	
George Ying-Liang Huang	:	
Application No. 10/337,740	:	ON PETITION
Filed: January 7, 2003	:	
Attorney Docket No. 11712-P003US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 17, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed May 19, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 20, 2004.

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
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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WINSTEAD SECHREST & MINICK P.C.
P.O. BOX 50784
DALLAS, TEXAS 75201

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NOV 16 2006

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,948,969 :
Issue Date: September 27, 2005 :
Application No. 10/337,740 :
Filed: January 7, 2003 :
Attorney Docket No. 11712-P003US :

This is a decision on the petition under 37 CFR 1.182, filed June 13, 2006, requesting issuance of duplicate Letters Patent for the above-identified application.

The petition is granted.

The Publishing Division is directed to issue duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208. Any questions concerning issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 308-9250 x 139.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent. The patent file is being forwarded to the Files Repository.

Karen Creasy
Petitions Examiner
Office of Petitions

cc: Krystal Paige, South Tower, 8C32 (Fax 571-273-9756)

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NOV 14 2005

Pablo Meles, Esq.
AKERMAN SENTERFITT
P.O. BOX 3188
West Palm Beach FL 33402-3188

In re Application of :
Naji C. Naufel :
Application No. 10/337,762 :
Filed: January 07, 2003 :
For: DISPOSABLE EXTERNAL FIXATION DEVICE

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on June 06, 2005.

The petition is **DISMISSED.**

A review of the file record reveals that the application became abandoned on December 30, 2004 for failure to respond to the Notice of Non-Compliant Amendment mailed to applicant on November 30, 2004, which set a one-month extendable response period.

Petitioner contends that no USPTO communications were received after the filing of the response submitted September 17, 2004.

There is a strong presumption that Office communications properly addressed and delivered to the United States Postal Services, are in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include **a copy of the list of all responses in the practitioner's office with the due date at and around December 30, 2004**. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

Applicant's petition indicates that a search of the file and docket records indicates that the November 30, 2004 Office communication was never received. In support thereof applicant has provided a copy of "the docket record" and PAIR entries for the application. The evidence provided is not considered a docket record but rather a list of actions. The PAIR entries fail to carry weight as evidence of non-receipt.

The petitioner has failed to comply with requirement (3) indicated above. Applicant has only set forth that the Office action mailed November 30, 2004 was not received or placed in the file for application 10/337,762. A complete docket record with a copy of the list of all responses in the practitioner's office with the **due date at and around December 30, 2004 is required**.

Petitioner's evidence of non-receipt of the Office action mailed November 30, 2004 is insufficient to withdraw the holding of abandonment, and 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."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

This application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to vacate the Final Rejection mailed July 11, 2005 for being inappropriate, as the case is abandoned.

Randolph A. Reese
Special Program Examiner
Patent Technology Center 3600
(571) 272-6619

RAR/rjc 08/25/05

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Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

Akerman Senterfitt
Post Office Box 3188
West Palm Beach, FL
33402-3188

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MAR 0 8 2006

OFFICE OF PETITIONS

In re Application of :
Naufel et al. :
Application No. 10/337,762 : DECISION ON PETITION
Filed: January 7, 2003 :
Attorney Docket No. 7424-1 :

This is a decision on the renewed "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action under 37 CFR 1.181(a) or Petition to Revive Abandoned Application under 37 CFR 1.137(b)," filed December 6, 2005.

On November 30, 2004, the Office mailed a Notice of Non-Compliant Amendment, which set a one-month extendable period to respond. In the absence of timely reply, the application became abandoned on December 31, 2004. On June 6, 2005, petitioners filed a petition to withdraw the holding of abandonment, which was dismissed by the decision of November 14, 2005. On November 22, 2005, the Office mailed a Notice of Abandonment.

A review of the record indicates no irregularity in the mailing of the Notice and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. To establish non-receipt of an Office communication, applicant must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1] For example, if a three-month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action. The showing outlined above may not be sufficient if there are

[1] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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).

In the present petition, the practitioner, Pablo Meles, asserted that neither he nor the law firm of Akerman Senterfitt received the Notice of November 30, 2004. The practitioner attested to the fact that a search of the file jacket and docket records revealed that the Notice was not received. In support of the assertion, the practitioner submitted a copy of the docket records where the non-received Notice of Non-Compliant Amendment would have been entered had it been received and docketed. Additionally, the practitioner enclosed a copy of a docket report, reflecting all of the actions for December 30, 2004, for all patent practitioners in the law firm using the CPI docketing system.

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. Accordingly, the renewed petition to withdraw the holding of abandonment is **granted**.

In view of the above, the petition to revive is **dismissed** as moot. The $750.00 petition fee is unnecessary and will be credited to Deposit Account No. 50-0951.

This matter is being referred to Technology Center Art Unit 3651 for action consistent with this decision.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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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WOLF GREENFIELD (Microsoft Corporation)
C/O WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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DEC 0 4 2007

OFFICE OF PETITIONS

In re Application of :
Brian D. Swander :
Application No. 10/337,763 : DECISION ON PETITION
Filed: January 7, 2003 :
Attorney Docket No. :
M1103.70205US00

This is a decision on the petition under 37 CFR 1.137(b), filed May 18, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 13, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on September 14, 2006. A Notice of Abandonment was mailed on December 29,2 006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Office action of June 13, 2006 is 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 Technology Center AU 2134 for appropriate action in the normal course of business on the reply received May 18, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLE INC./BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Scott Forstall	: DECISION ON REQUEST FOR
Patent Number	: 7581164	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/337,768	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/06/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **536** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLE INC./BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 05/18/2010

Applicant : Scott Forstall
Patent Number : 7581164
Issue Date : 08/25/2009
Application No: 10/337,768
Filed : 01/06/2003

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **568** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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TROXELL LAW OFFICE PLLC
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH VA 22041

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MAR 15 2010

In re Patent No. 6,983,476 :
Issue Date: January 3, 2006 :
Application No. 10/337,775 : NOTICE
Filed: January 8, 2003 :
Attorney Docket No. BHT-3230-24 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: BENJAMIN J. HAUPTMAN
1700 DIAGONAL ROAD
SUITE 310
ALEXANDRIA, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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TROXELL LAW OFFICE PLLC
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH VA 22041

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MAR 01 2010

In re Application of :
Din-Ping Tsai, et al. :
Patent No. 6,938,266 : NOTICE
Application No. 10/337,785 :
Filed: January 8, 2003 :
Attorney Docket No. BHT-3230-23

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

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.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **LOWER HAUPTMAN HAM & BERNER, LLP**
1700 DIAGONAL ROAD, SUITE 310
ALEXANDRIA, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Thomas L. Irving
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

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MAR 2 9 2004

OFFICE OF PETITIONS

Applicant: Arnaud et al.
Appl. No.: 10/337,786
Filing Date: January 8, 2003
Title: CARE OR MAKEUP COMPOSITION, COMPRISING A NON-VOLATILE SILICONE COMPOUND, A NON-SILICONE FAT-SOLUBLE POLYMER AND A SPECIFIC DISPERSANT
Attorney Docket No.:05725.1163.-00
Pub. No.: US 2003/0161806 A1
Pub. Date: August 28, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on October 14, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains a mistake on page 2 in paragraph 0034 wherein the symbol "δ_d" is misprinted as "$_d$" in a formula in the definition of solubility parameter.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." **A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.**[1] The instant request does not identify a material mistake in the publication made by the Office:

The typographical error wherein symbol "δ_d" is misprinted as "$_d$" in the formula is an Office error, but it is a minor typographical error, which is clearly understandable. The mistake is clearly understandable as the complete symbol is used elsewhere in the formula and in the paragraph preceding the formula setting out the parameters. The mistake is a minor typographical error which is clearly understandable from reading the specification and sentence in which the symbol used, as terms and phrases are not read in a vacuum. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

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[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: 703-872-9306

The application will be examined in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA-FOURTH FLOOR
720 WATER STREET
TOLEDO, OH 43604

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MAY 1 8 2005

OFFICE OF PETITIONS

In re Application of
Depaulis et al.
Application No. 10/337,797
Filed: January 7, 2003
Attorney Docket No. 1-73560

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 30, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed February 24, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on May 25, 2004. A Notice of Abandonment was mailed October 6, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to Technology Center 3600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Miller, Canfield, Paddock and Stone P.L.C.
c/o Robert Kelley Roth
150 West Jefferson Avenue
Suite 2500
Detroit, MI 48226

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OFFICE OF PETITIONS

In re Application of
WONG
Application No. 10/337,803
Filed: January 07, 2003
Attorney Docket No. 121707/00002

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 03, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Robert Kelley Roth on behalf of all attorneys of record.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

cc: Kwok D. Wong
41690 Sleepy Hollow Drive
Novi, MI 48377

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

Dennis J. Dupray
1801 Belvedere Street
Golden, CO 80401

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MAR 0 5 2004

OFFICE OF PETITIONS

In re Application of
Dennis J. Dupray
Application No. 10/337,807
Filed:January 6, 2003
Attorney Docket No. 1011

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 19, 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 in reply to the Notice to File Corrected Application Papers mailed April 14, 2003, which set a period for reply of (2) Two Months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on June 15, 2003.

The application file does not indicate a change of address has been filed in this case, although the address given on a paper filed differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address provided in the petition. However, all future correspondence will be directed solely to the address of record.

The application file is being forwarded to the Office of Initial Patent Examination Division for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 308-6911.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Dennis J. Dupray
1560 Broadway, Suite 1200
Denver, Colorado 80202

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Dennis J. Dupray
1801 Belvedere Street
Golden CO 80401

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FEB 2 1 2006

OFFICE OF PETITIONS

In re Application of :
Dupray :
Application No. 10/337,807 : DECISION ON PETITION
Filed: January 6, 2003 :
Attorney Docket No. 1011 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 24, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office Action mailed March 25, 2005. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on June 26 , 2005. This decision precedes the mailing of a Notice of Abandonment.

The statement of unintentional delay presented in the petition does not comply with the current rule. Pursuant to 37 CFR 1.137(b)(3) a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional" is required. However, the statement presented will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

This petition is hereby **GRANTED**.

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 Office hereby acknowledges the receipt of the amendment submitted with the instant petition.

This application is being forwarded to Technology Center 2600 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Petitions Attorney

Office of Petitions

cc: Dennis J. Dupray
1700 Lincoln Street, Suite 3500
Denver, Colorado 80203

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.
10/337,808	01/06/2003	Byeong Moon Jeon	6111-000004/US	1328

30593 7590 05/27/2010

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER	
GE, YUZHEN	

ART UNIT	PAPER NUMBER
2624	

MAIL DATE	DELIVERY MODE
05/27/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES 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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MAIL

MAY 27 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of
JEON, BYEONG MOON, et al.
Application No. 10/337,808
Filed: January 6, 2003
For: **CALCULATION METHOD FOR PREDICTION MOTION VECTOR**

DECISION ON REQUEST

This is a decision on the request for continued suspension of action under 37 C.F.R. § 1.103(a) filed April 13, 2010.

Applicants request a second period of suspension for 6 months. The reason for the request is the Applicants have not received a decision in the appeal for Application No. 11/907,460 ('460 application). As stated in Applicants' previous Petition to Suspend, the art cited against the claims in the subject application is the same as art cited against the claims in the '460 application. The claims include at least one feature commensurate in scope with at least one feature claimed in the '460 application. Furthermore, this feature forms at least one basis for arguing patentability in the Appeal of the '460 application. As such, the outcome of the Appeal in the '460 application may be dispositive of patentability in the subject application.

37 C.F.R. § 1.103 Suspension of action by the Office, states in part:

(a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension **not exceeding six months**. Any petition for suspension of action under this paragraph must also include:

(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office.
[emphasis added]

709 [R-2] Suspension of Action, states in part:...

Suspension of action under 37 CFR 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR 1.704(c)(1).

Pursuant to applicant's request, suspension on this application is **GRANTED**. Ex parte prosecution is SUSPENDED FOR A PERIOD OF 6 MONTHS. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Mark R. Powell

Mark Powell, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 6

EDWIN S. WALL
WALL LAW OFFICES
8 EAST BROADWAY, SUITE 500
SALT LAKE CITY, UT 84111

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MAY 0 5 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Cox et al.
Application No. 10/337,811
Filed: January 8, 2003
Attorney Docket No. 02PT74-08

This is a decision on the petition under 37 CFR 1.137(a), filed April 6, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The filing fee for a utility application on January 8, 2003, was $375. Petitioner submitted $370. Therefore, a Notice to File Missing Parts was mailed on February 24, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 25, 2003. A Notice of Abandonment was mailed on February 4, 2004.

A grantable petition under 37 CFR 1.137(a) must be accompanied by:
(1) the required reply,
(2) the petition fee,
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and
(4) a terminal disclaimer and fee *if* the application was filed on or before June 8, 1995 or *if* the application is a design application.

The instant petition lacks items (1) and (3).

As to item (1), petitioner must submit the remainder of the filing fee and the $65 surcharge for the late filing of the full filing fee. The total filing fee due is determined as of the date the fee is paid in full. The filing fee is currently $385. Therefore, the remainder of the filing fee due is $15.

As to item (3), in the absence of any irregularity in the mailing of the Office action, there is a strong presumption that the Office action was properly mailed. Petitioner must establish that the Notice was never received by inventor Cox. How is mail handled the Cox residence? Is he the only one who handles the mail? Cox should review the attached Notice and state how he would

have treated the Notice. Would he have discarded the Notice thinking Virga would handle all patent matters? Would he have kept the Notice? If yes, where? Has a search of that location been performed? Cox should supply a full statement describing why he is sure the Notice was never received at his address. If he cannot make such a statement, then a petition under 37 CFR 1.137(b) might be appropriate.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: Copy of Notice to File Missing Parts

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 8

EDWIN S. WALL
WALL LAW OFFICES
8 EAST BROADWAY, SUITE 500
SALT LAKE CITY, UT 84111

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AUG 2 5 2004

OFFICE OF PETITIONS

In re Application of :
Cox et al. :
Application No. 10/337,811 : ON PETITION
Filed: January 8, 2003 :
Attorney Docket No. 02PT74-08 :

This is a decision on the renewed petition under 37 CFR 1.137(a), filed May 27, 2004, to revive the above-identified application.

The petition is **granted**.

The filing fee for a utility application on January 8, 2003, was $375. Petitioner submitted $370. Therefore, a Notice to File Missing Parts was mailed on February 24, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 25, 2003. A Notice of Abandonment was mailed on February 4, 2004.

The instant petition seeks revival of the application. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(a). Therefore, the petition is granted.

The file is now being 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
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JJGJR.: 07-06

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OFFICE OF PETITIONS

EDWIN S. WALL
WALL LAW OFFICES
8 EAST BROADWAY, SUITE 500
SALT LAKE CITY UT 84111

In re Application of :
Cox, et al. : DECISION
Application No.: 10/337,811 :
Filing Date: 8 January, 2003 :
Attorney Docket No. 02PT74-08 :

This is a decision on the petition filed on 31 May, 2006, to revive the instant application under 37 C.F.R. §1.137(b) as having as abandoned due to unintentional delay.

For the reasons set forth below the petition as considered under 37 C.F.R. §1.137(b) 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. §1.137(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 final Office action mailed on 23 August, 2005, with reply due absent extension of time on or before 23 November, 2005;

- on 28 February, Petitioner filed (over a certificate of mailing) a request and fee for extension of time and a after-final amendment–which, Petitioner, as one registered to practice before the Office, is aware is not of right, and thus is not a proper reply[1] to a final Office action–and the Examiner did not enter the reply and mailed an Advisory Action on 13 March, 2006

- the application went abandoned by operation of law after midnight 23 February, 2006;

- it does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed;

- with the instant petition (with fee), Petitioner again filed a a reply an after-final amendment–which continues to be not a proper reply[2] to a final Office action and the Examiner has indicated she will not enter the amendment–and made the statement of unintentional delay.

- Petitioner was not Counsel of record at the time the application went abandoned, Petitioner is not in a position to make such a statement as to the nature of the delay;

- Petitioner is aware that such representations are, as are all representations by practitioners and applicants before the Office, susceptible to review for compliance with the duty of candor.

Petitioner must file a proper reply, and–as one registered to practice before the Office–Petitioner is well aware that the only reply that will be accepted we be either a Notice of Appeal (and fee), an amendment *prima facie* placing the application in condition for allowance, or a request for continued examination (RCE) and fee and submission in the form an amendment in conformance with the provisions of 37 C.F.R. §1.114, and failure to submit a *bona fide* reply may be considered an indication of intentional delay.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the

---

[1] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission). (See: MPEP §711.03(c).)

[2] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission). (See: MPEP §711.03(c).)

underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4]

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[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[4] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[7] And the Petitioner must be diligent in attending to the matter.[8] Failure to do so does not 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.[9]))

Allegations as to
Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

It appears as of this writing that Petitioner has yet to satisfy the "statement/showing" requirement under the regulation, and will require a statement from the applicant(s) or assignee(s) (with certificate under 37 C.F.R. §3.73(b)) in support of the petition .

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regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[5] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[6] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[7] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[8] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[9] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

CONCLUSION

The petition as considered under 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[10]

By mail: Commissioner for Patents[11]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[12]) 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

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[10] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The number (571) 273-8300 is 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 .)

[11] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

[12] 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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

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SEP 24 2007

TECHNOLOGY CENTER 2100

STASS & HALSEY LLP
1201 New York Avenue, N.W.
Suite 700
Washington, DC 20005

In re Application of: Ukai, et al.
Application No. 10/337,870
Attorney Docket No. 826.1577D
Filed: 01/08/2003
For: PREDICTED RETURN ADDRESS SELECTION UPON MATCHING TARGET IN BRANCH HISTORY TABLE WITH ENTRIES IN RETURN ADDRESS STACK

) DECISION ON PETITION FOR
) SUPERVISORY REVIEW REGARDING
) FINALITY OF RESTRICTION
) REQUIREMENT UNDER 37 CFR
) §1.144

This is in response to the petition filed on August 7, 2007, under 37 CFR 1.144 requesting supervisory review of the finality of a restriction requirement mailed on July 10, 2007.

The petition is **DISMISSED**.

RECENT PROSECUTION HISTORY

(1) A non-final first office action on the merits was mailed on February 7, 2007, in which claims 1-11 were rejected.

(2) An amendment was filed on May 7, 2007. A new claim (13) was added.

(5) In response to amendment (A), the Examiner mailed a restriction requirement on July 10, 2007 (combination – subcombination, Group I (claims 1-11), Group II (claim 13)).

(9) On August 7, 2007, a response to the restriction requirement and the instant petition (under 37 CFR §1.144) were filed by Petitioner.

RELIEF REQUESTED

The instant petition under 37 CFR § 1.144 requests the following relief: withdrawal of the restriction requirement of July 10, 2007.

ANALYSIS

37 CFR § 1.144 Petition from requirement for restriction.
After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Director to review the requirement. Petition may be deferred until after final action on or allowance of claims to the invention elected, but must be filed not later than appeal. ***A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181).***

37 CFR § 1.181 Petition to the Director.
(c) ***When a petition is taken from an action or requirement of an examiner in the ex parte prosecution of an application,*** or in the ex parte or inter partes prosecution of a reexamination proceeding, ***it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner.*** The examiner may be directed by the Director to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

Thus, and in accordance with 37 CFR § 1.144 and § 1.181, the petition filed August 7, 2007 is deemed to be premature, since the requirement has not be reconsidered and/or made final by the Examiner. Note, the prosecution history of the instant application does not make of record the telephone conversation of July 18, 2007 referenced in the instant petition.

Accordingly, the petition is **DISMISSED**.

The application is being forwarded to the Examiner for appropriate action i.e. consideration of the election and response to the restriction requirement filed August 7, 2007.

Any inquiries related to this decision may be directed to the undersigned at (571) 272-3595.

Brian L. Johnson, WG 2110
Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software, and Information Security

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APR 2 0 2005

OFFICE OF PETITIONS

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

In re Application of :
Kinya Harada et al :
Application No. 10/337,891 : DECISION GRANTING PETITION
Filed: January 8, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 00684.003446 :

This is a decision on the petition, filed April 20, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 18, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2852 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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BELLINGHAM, WA 98226

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OFFICE OF PETITIONS

In re Application of :
Darragh, et al. :
Application No. 10/337,912 : ON PETITION
Filed: January 6, 2003 :
Attorney Docket No. 3123-454 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 27, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed July 23, 2004. Accordingly, this application became abandoned on October 24, 2004. A Notice of Abandonment was mailed on May 3, 2005.

The file is being forwarded to Technology Center 2600 for review of the amendment filed October 27, 2005.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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APR 0 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Meek et al.	:	LETTER REGARDING
Application No. 10/337,917	:	PATENT TERM ADJUSTMENT
Filed: 6 January, 2003	:	
Attorney Docket No. 8285-567	:	

This is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed on 11 February, 2005. Applicants disclose that a terminal disclaimer was submitted in this application and thus, an adjustment of the patent term is not warranted.

The request for correction of the patent term adjustment (PTA) is **DISMISSED**.

35 U.S.C. 154(b)(2)(B) provides that:

> No patent the term of which has been disclaimed beyond a specified date may be adjusted under this section beyond the expiration date specified in the disclaimer.

37 CFR § 1.703(g) provides that:

> No patent, the term of which has been disclaimed beyond a specified date, shall be adjusted under § 1.702 and this section beyond the expiration date specified in the disclaimer.

The provisions of § 154(b), for adjustment due to examination delay, apply to original applications, other than designs, filed on or after May 29, 2000. The Office calculates patent term adjustment for examination delay in all eligible applications. In calculating the patent term adjustment, the Office does not differentiate between applications that have terminal disclaimers

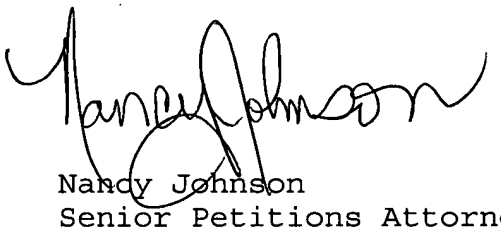
and those that do not. Nor does the Office undertake the burdensome task of reviewing every application with a terminal disclaimer to determine if the patent term adjustment accorded would adjust the term beyond the expiration date specified in the disclaimer.

Rather, on issuance of the application, in compliance with 35 U.S.C. 154(b) and 37 CFR § 1.703(g), it is indicated in the patent that the patent term adjustment indicated therein is subject to any disclaimer. Moreover, it is also stated therein that the patent is subject to a terminal disclaimer.

As this letter was submitted as an advisement to the Office of an error in Applicants' favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The application will be referred to the Publishing Division for processing into a patent.

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Paper No.

PROSKAUER ROSE LLP
PATENT DEPARTMENT
1585 BROADWAY
NEW YORK, NY 10036-8299

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APR 26 2006

OFFICE OF PETITIONS

In re Application of :
Jeffrey Burbank : DECISION ON PETITION
Application No. 10/337,948 :
Filed: January 6, 2003 :
Attorney Docket No. 53951-086 :

This is a decision on the "PETITION TO THE COMMISSIONER UNDER 37 C.F.R. §1.181 TO WITHDRAW HOLDING OF ABANDONMENT," filed October 20, 2005.

The petition under § 1.181 is **DISMISSED**.

Any request for reconsideration pursuant to § 1.181 must be filed within **TWO (2) MONTHS** of the date of this decision in order to be considered timely. See 37 CFR §1.181(f).

The above-identified application became abandoned for failure to timely file a proper reply to the Office letter mailed November 3, 2004. This Office action set a three-month shortened statutory period for reply, with extensions of time obtainable under § 1.136(a). No reply having been received in the Office and no extension of time obtained, the above-identified application became abandoned on February 4, 2005. A Notice of Abandonment was mailed on September 13, 2005.

In response, petitioner filed the instant petition, asserting that the response to the Office action was timely filed, with a two-month extension of time and authorization to charge the fee to a Deposit Account, by facsimile on April 4, 2005. The petition included a copy of the response as originally filed.

37 CFR §1.8(b) provides 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 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 instant petition was promptly filed. However, the copy of the previously mailed correspondence included a certificate of facsimile transmission; however, the response did not include a number to which the correspondence was faxed. Moreover, petitioner stated that the petition included a copy of the fax confirmation; however, no facsimile confirmation was among the papers received with the petition. The evidence has been considered, but not found persuasive that the response should be considered timely filed. See § 1.8(b). It is concluded that the abandonment should not be withdrawn.

On request for reconsideration, petitioner may submit the facsimile confirmation page and/or any additional information to establish that the response should be considered timely filed April 4, 2005.

Alternatively, applicant may submit a petition to revive pursuant to § 1.137(a) or § 1.137(b).

Further correspondence with respect to this decision should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By fax: (571) 273-8300
ATTN: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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P. O. Box 828
BLOOMFIELD HILLS MI 48303

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AUG 2 4 2004

OFFICE OF PETITIONS

In re Application of :
Akira Arai et al :
Application No. 10/337,986 :
Filed: January 7, 2003 :
Attorney Docket No. 9319A-185DVA :

ON PETITION

This is a decision on the petition, filed August 24, 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 28, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 1742 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

Paper No.: X

DATE : April 18, 2008

TO SPE OF : ART UNIT 1793

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/337986 Patent No.: 6951625 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The requested changes have been approved with the modifications noted with respect to the proposed Abstract, Table 1 and Table 2, MPEP 1485

JPS 4-29-08

Roy Ward King
SPE

1793
Art Unit

PTO/SB/44 (04-04)
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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO: 6,951,625 B2

DATED: October 4, 2005

INVENTORS: Akira ARAI and Hiroshi KATO

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

Title Page, (*) Notice:	This patent is subject to a Terminal Disclaimer.
Title Page, (30) Foreign Application Priority Data:	"Jan. 7, 2002 (JP)" should be --Jan. 7, 2000 (JP)--
Title Page, (57) ABSTRACT Lines 2-21:	Abstract should be substituted with: --Disclosed herein is a magnetic powder which can provide a magnet having excellent magnetic properties and having excellent reliability especially excellent stability. The magnetic powder is composed of an alloy composition represented by $R_x(Fe_{1-y}Co_y)_{100-x-z-w}B_zAl_w$ (where R is at least one kind of rare-earth element, x is 7.1-9.9at%, y is 0 – 0.30, z is 4.6 – 6.9at%, and w is 0.02 – 1.5at%), the magnetic powder being constituted from a composite structure having a soft magnetic phase and a hard magnetic phase, wherein the magnetic powder has magnetic properties characterized in that, when the magnetic powder is formed into an isotropic bonded magnet have a density ρ[Mg/m^3] by mixing with a binding resin and then molding it, the remanent magnetic flux density Br[T] at the room temperature satisfies the relationship represented by the formula of $Br/\rho[x10^{-6}T \cdot m/g] \geq 0.125$; the irreversible susceptibility (χ_{irr}) of the isotropic bonded magnet which is measured by using an intersectioning point of a demagnetization curve in the J-H diagram representing the magnetic properties at the room temperature and a straight line which passes the origin in the J-H diagram and has a gradient (J/H) of $-3.8x10^{-6}$H/m as a starting point is equal to or less than 5.0×10^{-7}H/m; and the intrinsic coercive force (H_{cJ}) of the isotropic bonded magnet at the room temperature is in the range of 320 - 720 kA/m.--

In the 7th from the last line of the above Abstract the letter "m" appearing in the formula should have a 3 as a superscript, that is "m" should read --m^3--

MAILING ADDRESS OF SENDER: G. Gregory Schivley
Harness, Dickey & Pierce PLC
P.O. Box 828
Bloomfield Hills, MI 48303

PATENT NO. 6,951,625 B2

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This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO: 6,951,625 B2

DATED: October 4, 2005

INVENTORS: Akira ARAI and Hiroshi KATO

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

Column 1, Lines 1-13:	Delete ", a manufacturing method of magnetic powder and bonded magnets." And substitute with: --and an isotropic bonded magnet.--
Column 1, Line 24:	After "powder" delete "to be"
Column 3, Line 42:	"10˙6" should be -- 10^{-6} --
Column 6, Line 44:	"increase" should be --increases--
Column 7, Line 18:	"leading" should be --leads--
Column 9, Line 59:	"10-1" should be --10^{-1} --
Column 13, Line 21:	After " -3.8" insert --x--
Column 16, Line 16:	"(χ_{BT})" should be --(χ_{rev})--
Column 18, Line 33:	"has" should be --was--
Column 19, Line 8:	"method" should be --methods--

MAILING ADDRESS OF SENDER: G. Gregory Schivley
Harness, Dickey & Pierce PLC
P.O. Box 828
Bloomfield Hills, MI 48303

PATENT NO. 6,951,625 B2

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO: 6,951,625 B2

DATED: October 4, 2005

INVENTORS: Akira ARAI and Hiroshi KATO

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

Table 1, Line 19:	"kA/M) should be --(kA/m)-- "(kA/M)" should be --(kA/m)--
Table 2, Line 30:	"°C" should be --(°C)-- "°C)" should be --(°C)--
Table 2, Line 30:	"kA/M) should be --(kA/m)--
Column 19, Line 52:	"resented" should be --represented--
Column 19, Line 52:	"Fe_{1-x}" should be -- Fe_{1-y} --
Column 19, Line 53:	"v" should be --y--
Column 19, Line 60:	" › " should be -- ≥ --

MAILING ADDRESS OF SENDER: G. Gregory Schivley
Harness, Dickey & Pierce PLC
P.O. Box 828
Bloomfield Hills, MI 48303

PATENT NO. 6,951,625 B2

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Paper No. 6

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-9889

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SEP 0 3 2003

OFFICE OF PETITIONS

In re Application of :
Kujirai et al. :
Application No. 10/388,002 :
Filed: 8 January, 2003 : LETTER
Atty Docket No. 843.42177VX1 :

This is in response to the petition under 37 CFR 1.47(a) filed on 12 August, 2003.

The petition is **DISMISSED AS MOOT**.

In accordance with 37 CFR 1.63(d), petitioner has submitted a copy of the executed oath or declaration filed in Application No. 10/278,918, filed on 24 October, 2002, of which the instant filing is a divisional application. Furthermore, a copy of the decision, mailed on 26 August, 2003, granting a petition to accord § 1.47(a) status to the prior application has been placed in the file of the present application.

As Rule 1.47(a) status was granted in the prior application, this application is hereby accorded Rule 1.47(a) status.

As no petition is necessary to accord Rule 1.47(a) status in this application, the petition is dismissed as moot. As no petition fee is necessary, the petition fee will be credited to counsel's deposit account, No. 01-2135.

As provided in Rule 1.47(c), since notice was provided after the grant of Rule 1.47(a) status in the prior application, the Office is dispensing with the notice provision in this divisional application.

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of	:	
Kujirai, Moniwa, Nakazato, Kisu,	:	DECISION ACCORDING STATUS
Matsuoka, Tabata, and Haga	:	UNDER 37 CFR 1.47(a)
Application No. 10/278,918	:	
Filed: 24 October, 2002	:	
Atty Docket No. 843.42177X00	:	

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 12 August, 2003.

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been mailed a copy of the application papers. Specifically, petitioners have established, via the declaration of Yoshitsugu Harada, that a copy of the application was sent to the non-signing inventor, Satoru Haga, on two occasions. The papers were returned as undeliverable after being sent the first time, and the inventor did not return an executed declaration after the papers were sent a second time.

In accepting this declaration, the Office is construing the declaration of Mr. Harada to mean that the application papers were sent on 5 June, 2003, to the last known address of joint inventor Haga. Petitioners **must** inform the Office if this is an incorrect interpretation.

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, not the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DRW 04-03

OIPE
AUG 12 2003
PATENT & TRADEMARK OFFICE

Paper No. 5

ANTONELLI TERRY STOUT AND KRAUS
SUITE 1800
1300 NORTH SEVENTEENTH STREET
ARLINGTON VA 22209

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APR 16 2003

OFFICE OF PETITIONS

In re Application of	:	
Kujirai, Moniwa, Nakazato, Kisu,	:	DECISION REFUSING STATUS
Matsuoka, Tabata, and Haga	:	UNDER 37 CFR 1.47(a)
Application No. 10/278,918	:	843.42177X00
Filed: 24 October, 2002	:	
Atty Docket No. 843.42177X00	:	req for reconsideration 6/16/03

This is in response to the petition filed under 37 CFR 1.47(a) on 10 February, 2003.

The petition is **DISMISSED**. WIS

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 24 October, 2002, without an executed oath or declaration. Accordingly, on 9 December, 2002, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing.

In response, on 10 February, 2003, petitioners filed the present petition, along the petition fee and surcharge and a declaration naming Hiroshi Kujirai, Masahiro Moniwa, Kazuo Nakazato, Teruaki Kisu, Hideyuki Matsuoka, Tsuyoshi Tabata, and Satoru Haga as joint inventors and signed by joint inventors Kujirai, Moniwa, Nakazato, and Teruo and Haruko Kisu as legal representatives for deceased inventor Teruaki Kisu, Matsuoka, and Tabata on behalf of themselves and joint inventor Haga.

Petitioners state that a letter including the declaration and an assignment was sent to joint inventor Haga's last known address,

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but that he did not return a signed declaration. An additional letter was sent, but returned as undelivered by the Japanese post office.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1).

In regards to item (1), petitioners have not provided proof that Taylor was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1] The showing of record is that although the declaration was sent to non-signing inventor Haga, the application papers were never sent to him. Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

If the envelope sent to the non-signing inventor at the last known address is returned as undeliverable by the post office,

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[1] MPEP 409.03(d).

petitioners should provide a copy of the envelope showing that the application was returned as undeliverable with any renewed petition. If the inventor refuses in writing to sign, a copy of that written refusal should be provided with any renewed petition. If the inventor refuses orally, petitioners should submit details of the refusal in an affidavit or declaration of facts by a person having first-hand knowledge of the refusal.

If repeated attempts to contact the non-signing inventor are unsuccessful, petitioners will have shown that despite diligent efforts, the inventor could not be reached.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

OR (after 1 May, 2003)[2]

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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[2]Effective 1 May, 2003, the U.S. Patent and Trademark Office is changing its address for some mail in preparation for its move to new office space in Alexandria, Virginia beginning at the end of 2003. See 68 Fed. Reg. 14332 (March 25, 2003).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
1177 AVENUE OF THE AMERICAS, 41ST FLOOR
NEW YORK, NY 10036-2714

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NOV 16 2005

OFFICE OF PETITIONS

In re Application of	:	
Norifumi Matsui et al	:	
Application No. 10/338,023	:	DECISION GRANTING PETITION
Filed: January 8, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. M1071.1807	:	

This is a decision on the petition, filed November 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 September 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 2817 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due 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).*

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

Mail Date: 04/22/2010

Applicant	: Lawrence Rosenberg	: DECISION ON REQUEST FOR
Patent Number	: 7662768	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/338,028	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/08/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1336** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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HANSRA PATENT SERVICES
4525 GLEN MEADOWS PLACE
BELLINGHAM, WA 98226

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OFFICE OF PETITIONS

In re Application of
EMO
Application No. 10/338,046
Filed: January 01, 2003
Attorney Docket No. 3123-452

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 28, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Tejpal S. Hansra on behalf of all attorneys of record who are associated with Customer No. 32093. All attorneys/agents associated with the Customer No. 32093 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.

A Review of the file discloses that a final Office action was mailed on September 08, 2006, which set forth a three month shortened statutory period for reply. Extensions of time under 37 CFR 1.136(a) are available. To date, there is no indication that a reply to the Office action of September 08, 2006 has been received.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: **BRUCE EMO**
2131 SUMMITVILLE DR.
LONGMONT, CO 80504

cc: **SEAGATE TECHNOLOGY LLC**
INTELLECTUAL PROPERTY DEPT. - COL2LGL
389 DISC DRIVE
LONGMONT, CO 80503

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 NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/338,046	01/06/2003	Bruce Emo	3123-452

CONFIRMATION NO. 1546

OC000000021489542

32093
HANSRA PATENT SERVICES
4525 GLEN MEADOWS PLACE
BELLINGHAM, WA 98226

Date Mailed: 12/06/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/28/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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ADE & COMPANY INC.
P.O. BOX 28006 1795 HENDERSON HIGHWAY
WINNIPEG MB R2G1P-0 CA CANADA

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OFFICE OF PETITIONS

In re Application of :
Gilbert Hofer :
Application No. 10/338,052 : ON PETITION
Filed: January 8, 2003 :
Attorney Docket Number: **83069-102 JAB** :

This is a decision on the petition filed February 10, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned June 28, 2004 for failure to timely pay the issue fee on or before June 25, 2004. Accordingly, the Notice of Abandonment was mailed July 29, 2004.

The issue fee, publication fee and petition fee have been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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MAIL

DEC 17 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE AZ 85251

In re application of:
Sandra Blake Toles
Application No. 10/338,072
Filed: January 6, 2003
For: A CHILD SAFETY SEAT ALARM SYSTEM AND METHOD THEREFOR

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 September 1, 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 of the attorneys/agents or record have been withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc: Sandra Blake Toles
168 Gannett Peak Street
Henderson, NV 89012

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SCOTTSDALE AZ 85251

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of:
Sandra Blake Toles
Application No. 10/338,072
Filed: January 6, 2003
For: A CHILD SAFETY SEAT ALARM SYSTEM AND METHOD THEREFOR

DECISION ON REQUEST TO WITHDRAW FROM RECORD

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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
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(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 or record have been withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc: Sandra Blake Toles
168 Gannett Peak Street
Henderson, NV 89012

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Alexandria, VA 22313-1450
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SHAY GLENN LLP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO CA 94403

3/6/09

In re Application of:
ADAMS, JOHN M. et al
Serial No.: 10/338,081
Filed: Jan. 7, 2003
Docket: 10057-712.201
Title: ELECTROTHERAPY SYSTEM, DEVICE, AND METHOD FOR TREATMENT OF CARDIAC VALVE DYSFUNCTION

DECISION ON PETITION TO ENTER AMENDMENT AFTER FINAL

This is a decision on the petition filed on July 17, 2007 to enter an Amendment After Final Rejection filed on June 11, 2007 under 37 CFR 1.116. The petition is being considered pursuant to 37 CFR 1.181 and no fee therefore is required.

The petition is **DISMISSED**.

The record shows that:

1. On April 10, 2007, the Examiner issued a Final Rejection that rejected claims 46-63.
2. On June 8, 2007, an interview between the Examiner and the Applicant was conducted. It was agreed that if claim 46 is amended to include the requirement that a P-wave is detected in the patient's heart and electrical energy is delivered to the lead electrodes to stimulate contraction of the muscle tissue proximate a cardiac valve in response to the detecting of a P-wave would overcome the prior art of record (see Interview Record mailed on June 12, 2007).
3. On June 11, 2007, the Applicant submitted an Amendment After Final Rejection and amended the claim 46, canceled claims 47-48, 53-54, 57 and 61-63 and added new claims 64-72.
4. On June 29, 2007, the Examiner issued an Advisory Action that the proposed amendment of June 11, 2007 will not be entered because they raise new issues. The Examiner stated that the amended claims do not place the application in condition for allowance because the newly added claims 64-72 present new limitations that were not previously claimed and have therefore not previously been searched. The addition of these claims would require further search and consideration in order to examine them on their merits.
5. The present petition was filed on July 17, 2007.

Discussion and Analysis

The relevant portions of 37 CFR § 1.116 Amendments and affidavits or other evidence after final action and prior to appeal, state:

> (a) An amendment after final action must comply with §1.114 or this section.
>
> (b) After a final rejection or other final action (§ 1.113) in an application or in an ex parte reexamination filed under § 1.510, or an action closing prosecution (§ 1.949) in an inter partes reexamination filed under § 1.913, but before or on the same date of filing an appeal (§41.31 or § 41.61 of this title):
>
> (1) An amendment may be made canceling claims or complying with any requirement of form expressly set forth in a previous Office action;
>
> (2) An amendment presenting rejected claims in better form for consideration on appeal may be admitted; or
>
> (3) An amendment touching the merits of the application or patent under reexamination may be admitted upon a showing of good and sufficient reasons why the amendment is necessary and was not earlier presented.

In the July 17, 2007 petition, the Applicant requests a review of the Examiner's refusal to enter the Amendment After Final Rejection filed on June 11, 2007 in the Advisory Action issued by the Examiner on June 29, 2007. In the Advisory Action, the Examiner refused to enter the Amendment After Final Rejection because the newly added claims 64-72 raise new issues requiring further search and consideration. In particular, the amended and newly added claims do not place the application in condition for allowance. The newly added claims 64-72 present new limitations that were not previously claimed and searched. The addition of these new claims would require further search and consideration in order to examine them on their merits.

The Applicant also argues in the petition that the proposed amendment to claim 46 was made pursuant to the agreement reached during the interview of June 8, 2007. The Applicant states that the amendment to claim 46 was merely to place dependent claim 48 in independent form. A comparison of claim 48 of January 19, 2007 under the final rejection and the proposed amended claim 46 after final filed on June 11, 2007 must be made. It appears the scope of the proposed amended claim 46 of June 11, 2007 is different due to the addition of the phrase "in response to the detected P-wave" in line 6. Therefore, the proposed amended claim 46 of June 11, 2007 does not have the same scope of the claim 48 of January 19, 2007 under the final rejection. Moreover, assuming arguendo, the proposed amendment to claim 46 overcomes the prior art of record, as agreed by the Examiner in the June 8, 2007 interview, the amendment after final under Rule 116 does not necessarily make the claims allowable. Further search and consideration are always necessary to determine whether the amended and newly added claims are in fact allowable in the amendment after final filed on June 11, 2007. Thus, Amendment After Final Rejection filed on June 11, 2007 does raise new issues and is not in compliance with 37 CFR 1.116.

Conclusion

For the foregoing reasons, the relief requested by petitioners will not be granted. Specifically, the Examiner's refusal to admit the Amendment After Final Rejection filed June 11, 2007 is proper.

The application is being forwarded to the Board of Appeals and Interferences for further processing and docketing. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136 (a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

The petition is dismissed.

Donald T. Hajec, Director
Technology Center 3700

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FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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OFFICE OF PETITIONS

In re Application of Way :
Application No. 10/338,088 : DECISION ON PETITION
Filing Date: January 6, 2003 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 14723-009001 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed December 5, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the 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.

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.

The application is being forwarded to Technology Center Art Unit 2613 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.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Francis 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
10/338,088	01/06/2003	2613	1006	39239-0725	22	59	6

CONFIRMATION NO. 2969

20985
FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

CORRECTED FILING RECEIPT

OC000000020181351

OC000000020181351

Date Mailed: 08/24/2006

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)

Winston Way, Irvine, CA;
Chao Xiang Shi, Cupertino, CA;

Power of Attorney:

Scott Harris--32030
John Phillips--35322
Christopher Marchese--37177
Gregory Einhorn--38440
Joseph Baker Jr--40900
Kenyon Jenckes--41873
Bing Ai--43312
Alexander Chen--45591
Michael Reed--45647
James Cleary--45843

Domestic Priority data as claimed by applicant

This application is a CIP of 09/575,811 05/22/2000 PAT 6,525,857
and is a CIP of 09/990,196 11/21/2001 PAT 6,895,184
and claims benefit of 60/346,786 01/07/2002

Foreign Applications

If Required, Foreign Filing License Granted: 04/15/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/338,088

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Fully protected broadcast and select all optical network

Preliminary Class

398

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).

#13 DW

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF THE DIRECTOR
TC 3600

Sierra Patent Group, LTD.
P.O. Box 6149
Stateline, NV 89449

In re Application of
Bruce M. Ruana
Application No. 10/338,145
Filed: January 7, 2003
For: RAILING ADVERTISING-SURFACE, SYSTEM AND METHOD

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply applicant's Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 filed in the United States Patent and Trademark Office on May 27, 2004.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a proper response to the Office letter mailed on October 21, 2003 and a Notice to that effect was mailed on May 14, 2004.

Petitioner states that a response was filed on November 6, 2003 by mail. The copy of the response submitted with the petition includes a Certificate of mailing dated November 6, 2003.

Any petition to withdraw the holding of abandonment based upon a Certificate of Mailing must include the following requirements:

(1) A copy of the original response bearing a signed Certificate of Mailing which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of mailing the *original* response on the date indicated on the Certificate of Mailing (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above the petition fails, under requirement (2), to also include a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of sending the *original* response by mail on the date indicated on the certificate, by the person who signed the certificate.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181."

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121

RAR/vdb: 7/6/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 20 2005

#15

Sierra Patent Group, LTD.
P O Box 6149
Stateline, NV 89449

In re Application of
Bruce M. Ruana
Application No. 10/338,145
Filed: January 7, 2003
For: RAILING ADVERTISING-SURFACE, SYSTEM AND METHOD

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on July 23, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☒ Certificate of Mailing/Transmission signed on November 6, 2003 and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

RAR/vdb: 9/21/05

Randolph A. Reese
Special Programs Examiner
Group 3600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 2/21/08

TO SPE OF : ART UNIT 2879

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/338146 Patent No: 7012372 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: _____

_____

_____

_____

_____

_____ 2879

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 121103

BANNER & WITCOFF
1001 G Street N. W.
Suite 1100
Washington, DC 20001

DEC 16 2003

In re Application of:
NGUYEN *et al.*
Serial No.: 10/338,148
Filed: January 07, 2003
Attorney Docket No.: **006186.00002**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed October 15, 2003.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by Thomas L. Evans, on behalf of himself and all the attorneys associated with Customer No. 22907. There is no outstanding Office action, which requires a response at this time.

The request is APPROVED.

There are no attorneys of record at this time.

All future communications from the Office will be directed to Sawyer Law Group LLP, at the address indicated below until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (703) 308-0519.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Sawyer Law Group LLP
Suite 406 Embarcadero Center
2465 East Bayshore Road
Palo Alto, CA 94303

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

Sawyer Law Group LLP
Suite 406 Embarcadero Center
2465 East Bayshore Road
Palo Alto, CA 94303

COPY MAILED

JUN 30 2006

OFFICE OF PETITIONS

In re Application of :
Nguyen et al. : DECISION ON PETITION
Application No. 10/338,148 :
Filed: January 7, 2003 :
Atty Docket No. 006186.00002 :

This is in response to the paper styled "INFORMATION FOR WITHDRAWAL OF ABANDONMENT - PTO HAS NO EVIDENCE THAT MAILED CORRESPONDENCE RECEIVED" filed March 29, 2005. This paper is properly treated as a petition to withdraw holding of abandonment pursuant to 37 CFR 1.181. This petition was recently forwarded to the undersigned for consideration.

The above-identified application became abandoned for failure to reply to the Office action mailed July 8, 2004. This Office action set a two-month shortened statutory period for reply, with extensions of time obtainable under § 1.136(a). No reply considered received and no extension obtained, the above-identified application became abandoned on September 9, 2004. A Notice of Abandonment was mailed on March 7, 2005.

In response, applicant timely filed the instant petition. Petitioner states that a response with a certificate of mailing dated August 9, 2004, was received in the Office on August 13, 2004. In support thereof, petitioner submitted a copy of their response and their return postcard.

37 CFR 1.8(b) provides 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 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.

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.

On instant petition, petitioner has satisfied the requirements of 1.8(b) to have the response considered timely filed by virtue of the certificate of mailing dated August 9, 2004. In addition, petitioner's postcard evidence serves as *prima facie* evidence that the response was, in fact, received August 13, 2004.

Accordingly, the Notice of Abandonment mailed March 7, 2005 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

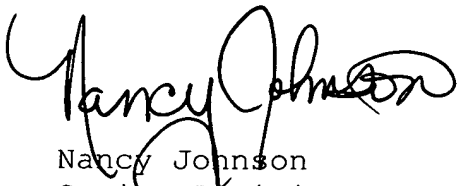
The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 2827 has been advised of this decision. The application file is, thereby, forwarded to the Technology

Center's technical staff to withdraw the holding of abandonment and for the examiner to consider the response to the July 8, 2004 Office action resubmitted on petition filed March 29, 2005.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED FROM
DIRECTORS OFFICE

JUL 14 2006

TECHNOLOGY CENTER 2800

Commissioner for Patents
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www.uspto.gov

Sawyer Law Group LLP
Suite 406 Embarcadero Center
2465 East Bayshore Road
Palo Alto, CA 94303

In re Application of:
NGUYEN *et al.*
Serial No.: 10/338,148
Filed: January 07, 2003
Attorney Docket No.: **006186.00002**

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the communication filed on March 29, 2005. The communication has been treated as a petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181. No fee is required.

The petition is **GRANTED**.

The application was held abandoned for failure to timely file a response to the Ex parte Quyale action mailed on July 08, 2004. A Notice of Abandonment was mailed on March 07, 2005.

Petitioner asserts that on August 09, 2004, a response including an amendment was filed. To support this assertion, petitioner has submitted a copy of the response and a copy of a return postcard receipt, which acknowledges receipt in the PTO of the amendment on August 13, 2004.

A review of the application file record reveals that the above-identified response having been acknowledged as being received in the PTO on August 13, 2004, is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states, "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." Accordingly, it is concluded that the response was timely received in the PTO but lost somewhere after receipt thereof. It is further noted that that petitioner provided the incorrect Serial No. "10/338,146" on first page of the response. However, a minor error in the identification of the application can be corrected by the Office provided the correct identification can be quickly discovered. M.P.E.P. § 502. In this instance, the attorney docket number and title should have resulted in the response being correctly matched with the application. This may have contributed to the original response not being matched with the file.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The copy of the response submitted with the petition on March 29, 2005, is accepted since the response originally submitted was apparently lost.

The application file is being forwarded to the examiner of record for consideration of the response and prompt appropriate action.

Inquiries regarding this decision should be directed to Clayton E. LaBalle, Special Programs Examiner, at (571) 272-1594.

Sharon A. Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

COPY MAILED

JUN 30 2006

OFFICE OF PETITIONS

In re Application of :
Albert K. Chin :
Application No. 10/338,163 : ON PETITION
Filed: January 6, 2003 :
Attorney Docket No. 23488-07395 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 30, 2006, to revive the above-identified 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). This is also a decision on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee filed June 16, 2006. See 1233 *Official Gazette* 54 (April 11, 2000).

The petitions are **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on January 13, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b).

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of October 5, 2006 accompanies this decision on petition.

Since petitioner has complied with 37 CFR 1.137(b), the application may be returned to a pending status. However, in view of petitioner's request to withdraw the application from issue, the application is hereby withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 30, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3735 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

[1]The request to apply the issue fee to the new Notice must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to request *in writing* that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application.**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/338,163	01/06/2003	Albert K. Chin	23488-07395

CONFIRMATION NO. 3010

00758
FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

Date Mailed: 06/30/2006

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 10/05/2006.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070628

DATE : June 28, 2007

TO SPE OF : ART UNIT 3735 10338163

SUBJECT : Request for Certificate of Correction on Patent No.: 7,214,180

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: Chuck Marmor, II **Art Unit** 3735

UNITED STATES PATENT AND TRADEMARK OFFICE

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Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis, MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Albert K. Chin	:	
Application No. 10/338,163	:	DECISION ON PETITION
Filed: January 6, 2003	:	TO WITHDRAW
Attorney Docket No. 26448-07395	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 14, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Schwegman, Lundberg, Woessner & Kluth, P.A. has been revoked by the assignee of the patent application on February 20, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Fenwick & West LLP**
Silicon Valley Center
801 California Street
Mountain View, CA 94041

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6-8-06

Paper No.: _____

TO SPE OF : ART UNIT 1745

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/338175 Patent No.: 7041414

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 Ref Cited

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☒ **Denied** — State the reasons for denial below.

Comments: Not considered during prosecution

SPE

1745

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

FOLEY & LARDNER
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

COPY MAILED

APR 2 2 2003

OFFICE OF PETITIONS

In re Application of :
Kenneth F. Buechler et al :
Application No. 10/338,182 : NOTICE
Filed: January 7, 2003 :
Attorney Docket No. 071949-2606 :

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 1641.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mailed: 1-18-06 dss

In re application of
Richard Lowe Barrett et al.
Serial No. 10/338,190
Filed: January 07, 2003
For: CYLINDRICAL MAGNETRON MAGNETIC ARRAY MID SPAN SUPPORT

DECISION ON PETITION

This is a response to the REQUEST FOR WITHDRAWAL OF NOTICE OF ABANDONMENT, filed March 30, 2005. The request petitions that the abandonment as set forth in the Notice of Abandonment mailed March 22, 2005 for failure to respond to the Office Action mailed September 07, 2004 be withdrawn. Applicants assert that the Office Action was not received, since it was mailed to the incorrect address.

DECISION

Since petitioner asserts that the Office Action of September 07, 2004 was incorrectly mailed by the USPTO, the request is accepted as a petition under 37 C.F.R. 1.181 (no fee). A review of the petitioner's evidence provided with the instant petition indicates that the request can not be granted. A review of the application's file contents indicates that applicant has not complied with the requirements of MPEP 601.03 Change of Correspondence Address by filing a proper Change of Correspondence Address in accordance therewith and that the Office action was mailed to the correct correspondence address of record; Skjrven Morrill LLP 28th Floor, 3 Embarcadero Center, San Francisco CA 94111. The application is still held abandoned.

The Petition is **DISMISSED**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Skjvren Morrill LLP
28th Floor
3 Embarcadero Center
San Francisco CA 94111

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DAVIS WRIGHT TREMAINE, LLP
505 MONTGOMERY STREET
SUITE 800
SAN FRANCISCO, CA 94111

COPY MAILED

JUN 14 2007

OFFICE OF PETITIONS

In re Application of :
Richard Lowe Barrett, et. al. :
Application No. 10/338,190 : ON PETITION
Filed: January 7, 2003 :
Attorney Docket No. VONA.010US0 :

This is a decision on the petition under 37 CFR 1.137(b), filed on March 6, 2006, to revive the above-identified application. The delay in responding is sincerely regretted.

The application became abandoned for failure to respond to the non-final Office action mailed September 7, 2004. A Notice of Abandonment was mailed on March 22, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 1753, for review of the amendment filed on December 21, 2005.

A courtesy copy of this decision is being mailed to the address noted on the petition. However, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Peter Gallagher
Parsons Hsue & de Runtz, LLP
595 Market Street - Suite 1900
San Francisco, CA 94105

UNITED STATES PATENT AND TRADEMARK OFFICE

#14

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Peter H. Kang
c/o Sidley Austin Brown & Wood LLP
555 California Street
Suite 5000
San Francisco, CA 94104-1715

MAILED
FROM DIRECTORS OFFICE

DEC 09 2004

TECHNOLOGY CENTER 3600

In re Application of :
Jeffrey D. Boschert :
Application No. 10/338,192 :
Filed: January 7, 2003 :
For: AQUARIUM LIGHTING SYSTEM AND METHOD FOR OPERATING AN AQUARIUM

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the petition to withdraw the holding of abandonment filed in the United States Patent and Trademark Office on September 21, 2004.

The petition is **GRANTED**.

A review of the file record reveals that a Notice of Non-Compliant Amendment was mailed on February 6, 2004, with a one-month shortened statutory period for response. The application was held abandoned for failure to timely respond to the Notice of Non-Compliant Amendment mailed February 6, 2004, and a Notice of Abandonment was mailed on September 8, 2004.

Applicant states that the Notice of Non-Compliant Amendment was never received. In support thereof, petitioner "attests to the fact that a search of the file jacket and docket records indicates that the Office communication was not received." Petitioner has also included a "copy of the docket record where the nonreceived Office communication would have been entered had it been received", as per 1156 O.G. 53 and MPEP 711.03(c). However, in view of the facts below, the evidence relating to 1156 O.G. 53 and MPEP 711.03(c) is moot, and the petition will not be decided on that basis.

A further review of the application file reveals that applicant submitted a change of correspondence address on July 2, 2003, and again on November 12, 2003. That correspondence address appears to have been incorrectly entered into the USPTO database. As a result, the Notice of Non-Compliant Amendment was mailed out with an address that lacked the proper street address "555 California Street". The USPTO database has since been corrected.

Since the Notice of Non-Compliant Amendment was not properly addressed, applicant's petition to withdraw the holding of abandonment is granted.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the holding of abandonment, and restore the application to pending status before re-dating and re-mailing the Office action (Notice of Non-Compliant Amendment) previously mailed on February 6, 2004.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/rwg: 12/06/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON MA 02210

COPY MAILED

JUL 23 2007

OFFICE OF PETITIONS

In re Application of :
Jin, et al. :
Application No. 10/338,216 : DECISION ON PETITION
Filed: January 8, 2003 :
Attorney Docket No. 107051-0014 :

This is a decision on the petition, filed March 29, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue fee on or before February 2, 2007, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed November 2, 2006. A Notice of Abandonment was mailed on February 27, 2007.

Petitioner asserts that the Notice dated November 2, 2006 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and
3. a copy of the docket record where the nonreceived Notice would have been entered and docketed had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the February 27, 2007 Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center AU 2125 technical support staff for **re-mailing** the Notice of Allowability and the Notice of Allowance and Fee(s) Due of November 2, 2006. The period for paying the issue fee will be reset to expire three (3) months from the date the Notices are re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Received
MAR 31 2003
Docket: P02238US4
Client: Aerobus
Attorney: PCP

Paper No. 19

ALBERTO Q. AMATONG JR
FULBRIGHT & JAWORSKI LLP
1301 MCKINNEY
SUITE 5100
HOUSTON, TX 77010-3095

COPY MAILED

MAR 2 7 2003

OFFICE OF PETITIONS

In re Application of :
Ben Lamoreaux, Hans Wettstein, :
Per Assheim and Andre Pugin : DECISION ON PETITION
Application No. 09/540,381 : UNDER § 1.48
Filed: March 31, 2000 :
Attorney Docket No. 0317FV-37678 :
Title: ELEVATED CABLEWAY SYSTEM :

This is in response to the "Petition under 37 C.F.R. § 1.47 or 37 C.F.R. § 1.183," filed March 3, 2003.

The petition under § 1.183 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 § 1.136(a) are not permitted. See § 1.181(f). (Given that this application is in condition for allowance, any renewed petition should be filed promptly. After issuance, correction of inventorship may only be accomplished by certificate of correction on petition under § 1.324, or by reissue application).

The above-identified application was filed on March 31, 2000, with an unexecuted declaration naming Hans Wettstein, Per Assheim and Andre Pugin as joint inventors. On March 3, 2003, the instant request was filed to amend the inventorship to add a joint inventor, Ben Lamoreaux. § 1.48(a) requires:

> (1) A request to correct the inventorship that sets forth the desired inventorship change;
>
> (2) 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;
>
> (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
>
> (4) The processing fee set forth in § 1.17(i); and
>
> (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

The petition as filed March 3, 2003 clearly satisfies requirements (1), (2), (4) and (5). The petition specifically requests the addition of Ben Lamoreaux as an inventor, includes a statement from inventor Lamoreaux that the error occurred without deceptive intention on his part, includes a check covering payment of the processing fee ($130.00), and includes a written consent of assignee. However, as to requirement (3), applicants request that a declaration be accepted without the signature of inventor Wettstein.

This request is being treated as a petition for waiver of the requirement that each of the actual inventors reexecute the declaration. Petitioner has submitted the fee ($260) for such consideration under § 1.48 and § 1.183[1]. Petitioner asserts that inventor Wettstein has refused to sign the declaration.

However, the petition under § 1.183 must be dismissed because petitioner has not made the required showing of refusal as provided for in 37 CFR § 1.47. Before a refusal can be alleged, applicants must demonstrate 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 non-signing inventor. See MPEP 409.03(d). 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. 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). Petitioner has not provided evidence that the application papers (specification, including claims, drawings, and oath or declaration) were all presented to inventor Wettstein for his signature. Rather, the evidence shows that inventor Wettstein was only presented with the declaration along with the abstract and representative drawings.

Further correspondence with respect to this decision should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

---

[1] See MPEP 201.03 Where waiver under 37 CFR 1.183 is requested in relation to a requirement under 37 CFR 1.48(a), a processing fee under 37 CFR 1.48(a) and a petition fee under 37 CFR 1.183 are required. Similarly, where in addition to a request under 37 CFR 1.48, two petitions under 37 CFR 1.183 are presented, e.g., one requesting waiver of a requirement under 37 CFR 1.48 and the other requesting waiver of the reexecution of an oath or declaration under 37 CFR 1.64, three fees are required (one for the request filed under 37 CFR 1.48 and two for the petitions filed under 37 CFR 1.183).

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza Four, Suite 3C23
Arlington, VA

Telephone inquiries related to this decision may be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 5

FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON TX 77010-3095

COPY MAILED

MAR 19 2004

OFFICE OF PETITIONS

In re Application of :
Pugin et al. :
Application No. 10/338,227 : ON PETITION
Filed: 8 January, 2003 :
Atty Docket No. HO-P02238US8 :

This is a decision on the petition under 37 CFR 1.137(a), filed on 9 March, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned on 20 April, 2003, for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application mailed on 19 February, 2003, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 9 February, 2004.

Petitioner asserts that a reply to the Notice was timely filed on 21 April, 2003, but was lost after receipt at the USPTO.

In support, petitioners have supplied a copy of a Response to the Notice, with a transmittal letter showing a Certificate of Mailing dated 21 April, 2003, as well as a postcard receipt dated 21 April, 2003.[1] The reply is accompanied by a declaration signed by joint inventors Pugin and Lamoreaux. Petitioners have not included a declaration executed by joint inventor Wettstein

[1]It is noted that 19 April, 2003, fell on a Saturday.

but state that a petition under "Rule 183" was filed in the parent application in which the declaration in compliance with 37 CFR 1.63 was originally filed. Petitioners further invite the Office to treat the present petition as a petition under "37 CFR § 183".

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

> (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
>
> (2) the petition fee as set forth in § 1.17(l);
>
> (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
>
> (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks items (1) and (3) above.

With regard to item (1), while petitioner's response was timely, it was not a proper and complete reply to the Notice mailed on 19 February, 2003, in that it lacks the signature of joint inventor Wettstein or a proper petition under 37 CFR 1.47(a). Petitioners should note that a petition under 37 CFR 1.47(a) rather than a petition under 37 CFR 1.183 is the appropriate petition to file when a joint inventor refuses to sign the declaration. As such, any renewed petition should be accompany by either a declaration signed by joint inventor Wettstein or a proper petition under 37 CFR 1.47(a), accompanied by a showing that the non-signing inventor has refused to sign the declaration after being sent or given the application papers or cannot be found. Alternatively, If a Rule 47 petition is granted in the parent application, petitioners may file a copy of that decision in the present

application with any renewed petition.

With regard to item (3), decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[2]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[3]

A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP

---

[2] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[3] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

does not constitute an "unavoidable" delay.[4] A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (1) the applicant's reliance upon oral advice from Office employees; or (2) the Office's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action.[5]

The showing of record is that rather than unavoidable delay, that a proper response to the Notice mailed on 19 February, 2003, was not filed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b)[6], which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

---

[4] See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

[5] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

[6] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioner's convenience.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

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

Enclosure: Form PTO/SB/64
Privacy Act Statement

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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DRW 05-04

Paper No. 8

FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON TX 77010-3095

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MAY 0 5 2004

OFFICE OF PETITIONS

In re Application of	:	
Pugin et al.	:	
Application No. 10/338,227	:	ON PETITION
Filed: 8 January, 2003	:	
Atty Docket No. HO-P02238US8	:	

This is a decision on the petition under 37 CFR 1.137(b)[1], filed on 23 April, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

This application became abandoned on 20 April, 2003, for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application mailed on 19 February, 2003, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 9 February, 2004. The petition filed under 37 CFR 1.137(a) on 9 March, 2004, was dismissed on 19 March, 2004.

Petitioners assert that the present application is a continuation of Application No. 09/540,381, which originally named Pugin, Aasheim, and Lamoreaux as the inventive entity. Petitioners further state that a petition under 37 CFR 1.183 has been filed to add Wettstein as a joint inventor. Wettstein, however, petitions assert, refuses to sign the declaration in compliance with 37 CFR 1.63 and 1.67 as well as the statement of lack of deceptive intent required by 37 CFR 1.48. In support, petitioners have filed a copy of the decision dismissing the petition under 37 CFR 1.183 filed in Application No. 09/540,381, as well as a copy of a renewed petition.

The petition lacks the required reply. In this regard, it is noted that while petitioners have supplied a copy of a petition under 37 CFR 1.183 to waive 37 CFR 1.48 insofar as it requires a statement of lack of deceptive intent and the signature of an inventor sought to be added on the oath or declaration in compliance with 37 CFR 1.63 and 1.67, the petition has not been granted. As such, petitioners have not shown that a properly executed declaration has been filed in the prior application.

Furthermore, 37 CFR 1.63(d)(1) states that a newly executed oath or declaration is not required in a continuation or division application provided that where the executed oath or declaration of which a copy is submitted for a continuation or divisional application was originally filed in a prior application accorded status under § 1.47, the copy of the executed oath or declaration for such prior application must be accompanied by a copy of the decision granting a petition to accord § 1.47 status to the prior application, unless all inventors or legal representatives have filed an oath or declaration to join in an application accorded status under § 1.47.[2]

As such, since no petition under 37 CFR 1.47 was filed in the prior application, any renewed petition to revive the present

[2] See 37 CFR 1.63(d)(3)(i).

application should be accompanied by a petition under 37 CFR 1.47 filed in the present application, showing that the application papers in the present application were presented to the non-signing inventor, or that the non-signing inventor was unavailable to join in the filing of the present application (*i.e.*, Application No. 10/338,227).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this matter 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DRW 02-04

Paper No. 10

FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON TX 77010-3095

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AUG 0 4 2004

OFFICE OF PETITIONS

In re Application of	:	
Pugin et al.	:	
Application No. 10/338,227	:	ON PETITION
Filed: 8 January, 2003	:	
Atty Docket No. HO-P02238US8	:	

This is a decision on the renewed petition under 37 CFR 1.137(b)[1], filed on 1 July, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 20 April, 2003, for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application mailed on 19 February, 2003, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

obtained. Notice of Abandonment was mailed on 9 February, 2004. The petition filed under 37 CFR 1.137(a) on 9 March, 2004, was dismissed on 19 March, 2004. The petition filed under 37 CFR 1.137(b) on 23 April, 2004, was dismissed on 5 May, 2004.

Petitioners assert that the present application is a continuation of Application No. 09/540,381, which originally named Pugin, Aasheim, and Lamoreaux as the inventive entity. Petitioners further state that a petition under 37 CFR 1.183 has been filed to add Wettstein as a joint inventor. Wettstein, however, petitions assert, refuses to sign the declaration in compliance with 37 CFR 1.63 and 1.67 as well as the statement of lack of deceptive intent required by 37 CFR 1.48. In support, petitioners have filed a copy of the decision granting the request for reconsideration of the petition under 37 CFR 1.183 filed in Application No. 09/540,381, as well as a copy of a renewed petition.

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.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TIME DOMAIN CORPORATION
7057 OLD MADISON PIKE
HUNTSVILLE, AL 35806

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JUL 1 2 2004

OFFICE OF PETITIONS

In re Application of :
Larry W. Fullerton :
Application No. 10/338,238 : ON PETITION
Filed: January 8, 2003 :
Attorney Docket No. TDCO:020 (F.12C) :

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed May 4, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120.

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.

A review of the amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications amends the previously submitted claims for priority set forth in the first line of the specification only insofar as Application No. 09/419,806 sets forth the relationship to Application No. 08/978,367 as a "continuation-in-part" thereof, rather than as a - -continuation - -. The amendment further seeks to delete an improper reference for priority to two PCT applications and nonprovisional Application No. 07/010,440. The petition indicates that a reference to nonprovisional Application No. 08/335,676 was previously omitted.

A review of the first line of the specification discloses that, on filing, a reference to all the prior-filed applications, including Application No. 09/335,676, noted in the amendment was included on filing. However, as noted above, the correct relationship of Application No. 09/419,806 to Application No. 08/978,367 was not set forth. Therefore, in view of this improper designation of relationship, the instant petition is required.

The instant nonprovisional application was filed after November 29, 2000, and the correct relationship of the benefit claim herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference 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 satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

A corrected Filing Receipt accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center Art Unit 3662 for appropriate action on the amendment filed May 4, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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7057 OLD MADISON PIKE
HUNTSVILLE, AL 35806

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JUL 1 2 2004

OFFICE OF PETITIONS

In re Application of :
Larry W. Fullerton :
Application No. 10/338,238 : ON PETITION
Filed: January 8, 2003 :
Attorney Docket No. TDCO:020 (F.12C) :

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed May 4, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120.

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.

A review of the amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications amends the previously submitted claims for priority set forth in the first line of the specification only insofar as Application No. 09/419,806 sets forth the relationship to Application No. 08/978,367 as a "continuation-in-part" thereof, rather than as a - -continuation - -. The amendment further seeks to delete an improper reference for priority to two PCT applications and nonprovisional Application No. 07/010,440. The petition indicates that a reference to nonprovisional Application No. 08/335,676 was previously omitted.

A review of the first line of the specification discloses that, on filing, a reference to all the prior-filed applications, including Application No. 09/335,676, noted in the amendment was included on filing. However, as noted above, the correct relationship of Application No. 09/419,806 to Application No. 08/978,367 was not set forth. Therefore, in view of this improper designation of relationship, the instant petition is required.

The instant nonprovisional application was filed after November 29, 2000, and the correct relationship of the benefit claim herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference 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 satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

A corrected Filing Receipt accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center Art Unit 3662 for appropriate action on the amendment filed May 4, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DANIEL C. SCHULTE
KAGAN BINDER PLLC
MAPLE ISLAND BUILDING, SUITE 200
221 MAIN STREET NORTH
STILLWATER, MN 55082

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NOV 17 2005

OFFICE OF PETITIONS

In re Application of :
Dona Soto :
Application No. 10/338,261 : DECISION GRANTING PETITION
Filed: January 8, 2003 : UNDER 37 CFR 1.181
Attorney Docket No. SOT0002/US :

This is a decision on the petition under 37 CFR 1.181(a), filed April 11, 2005, which is being treated as a petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely reply within the three month shortened statutory period set in the non-final Office action, mailed May 21, 2004. A Notice of Abandonment was mailed on March 25, 2005.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on August 26, 2004 of an amendment and amended drawings (2 sheets) (Figures 1-3). Petitioner has provided, along with the petition, a copy of the previously filed correspondence. The copy of the first page of the amendment bears a certificate of mailing date of August 23, 2004 (the due date of August 21, 2004 is a Saturday).

The reply acknowledged as having been received in the USPTO on August 26, 2004 has not to date been associated with the file record of this case. However, MPEP 503 states that "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the reply, bearing a certificate of mailing date of August 23, 2004, was timely received in the USPTO but lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The copy of the reply submitted with the petition papers will be accepted in place of the reply acknowledged as having been received in the USPTO on August 26, 2004.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. Inquiries concerning the status or examination procedures should be directed to the Technology Center.

This matter is being referred to Technology Center AU 3727.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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JOHN P. WOOLDRIDGE
252 KAIPII PL
KIHEI, HI 96753

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OFFICE OF PETITIONS

In re Application of
Kenneth L. Blaedel et al
Application No. 10/338,266
Filed: January 7, 2003
Attorney Docket No. CIL-10844

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 28, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue/publication fee in a timely manner in reply to the Notice of Allowance mailed July 21, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 22, 2004.

Pursuant to petitioner's authorization, Deposit Account No. 50-1913 was charged a total of $3,040.00 -- $1,370.00 for the petition to revive an unintentionally abandoned application, $1,370.00 for the issue fee, and $300.00 for the publication fee.

The Application For Change In Correspondence Address filed October 2, 2004 is noted and made of record.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/12/10 Paper No.: _____

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/338268 Patent No.: 7116805 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The correction is approved. BL 05/20/2010

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 07/15/2010

Applicant	: Shriharsha S. Hegde	: DECISION ON REQUEST FOR
Patent Number	: 7646759	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/338,291	: 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 **1213** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

JUL 21 2003

Paper No. 7

In re Application of :
David A. Keezer :
Serial No. 10/338,302 : DECISION ON PETITION
Filed: January 8, 2003 : TO MAKE SPECIAL
For: FOLDED PAPER CD CARRIER :

Applicant's petition, filed January 8, 2003, seeks to have this application made special based upon the Energy Conservation 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(VI) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700 (3710/20)

David A. Keezer
11011 Kika Court
San Diego, CA 92129

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DEC - 6 2004

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DEC - 6 2004

**OFFICE OF THE DIRECTOR
TC 3600**

William N. McCambley
105 Brantford Circle
Horsham, PA 19044

In re application of
William Norbert McCambley
Application No. 10/338,320
Filed: January 8, 2003
For: DISPLAY COVER FOR VEHICLE EXTERIOR SIDEVIEW MIRRORS

: **DECISION ON PETITION TO MAKE SPECIAL (PROSPECTIVE MANUFACTURE)**

This is a decision on the petition under 37 C.F.R §1.102(d) filed January 8, 2003 to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in MPEP 708.02, item I: Prospective Manufacture.

The petition is **GRANTED**.

MPEP 708.02 states that a Petition to Make Special based on Prospective Manufacture 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) the possession by the prospective manufacturer of sufficiently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) or that sufficiently available capital and facilites will be made available upon grant of a patent, with the proviso that if the prospective manufacturer is an individual a corroborating statement from a responsible party is required; (B) that the prospective manufacturer will not begin or increase production unless certain that the patent will be granted; (C) that the prospective manufacturer obligates themselves to manufacture the invention in the U.S. in quantity immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and (D) 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

The petition filed January 8, 2003 includes all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

kjd:12/2/04

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ALVIN J. RIDDLES
CANDLEWOOD ISLE
BOX 34
NEW FAIRFIELD CT 06812

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MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of :
Lawrence S. Mok :
Application No. 10/338,347 : DECISION GRANTING PETITION
Filed: January 8, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. YOR920020247US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 22, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The 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 response; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of August 28, 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 Technology Center AU 2835.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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HARTMAN & HARTMAN, P.C.
552 EAST 700 NORTH
VALPARAISO, IN 46383

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SEP 2 1 2004

OFFICE OF PETITIONS

In re Application of :
Douglas Ray Sparks :
Application No. 10/338,351 : ON PETITION
Filed: January 7, 2003 :
Attorney Docket No. A2-1566 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 3, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed December 3, 2003, which set a shortened statutory period for reply of three (3) months. Two months extension of time under the provision of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on May 4, 2004.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on August 3, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

This matter is being forwarded to Technology Center AU 1775 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Paper No. 4

Williams, Morgan & Amerson, P.C.
10333 Richmond Avenue, Suite 1100
Houston, TX 77042

COPY MAILED

JUL 1 6 2003

OFFICE OF PETITIONS

In re Application of :
Rainer Moerig :
Application No. 10/338,359 : ON PETITION
Filed: January 8, 2003 :
Attorney Docket No. 2086.002000 :

This is in response to the "Petition Under 37 CFR 1.47(b)," filed June 2, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor, Rainer Moerig cannot be located. Specifically, the declaration/statement of facts of Mark W. Sincell establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration. In addition, petitioner has shown that Western Geco, LLC 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 Schlumberger Technology 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.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 3700.

Telephone inquiries regarding this communication should be directed to Marianne Morgan at (703) 306-3475.

Frances Hicks

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mr. Rainer Moerig
12431 Briar Forest Drive
Houston, TX 77077

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JUL 1 6 2003

OFFICE OF PETITIONS

In re Application of
Rainer Moerig
Application No. 10/338,359
Filed: January 8, 2003
For: METHOD OF HARMONIC NOISE ATTENUATION IN CORRELATED SWEEP DATA

Dear Mr. Rainer Moerig:

You are named as a joint inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining 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 Marianne Morgan at (703) 306-3475. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

Frances Hicks

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Mark W. Sincell, Ph.D.
Williams, Morgan & Amerson, P. C.
10333 Richmond Avenue, Suite 1100
Houston, TX 77042

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COOLEY GODWARD LLP
ATTN: PATENT GROUP
11951 FREEDOM DRIVE, SUITE 1700
ONE FREEDOM SQUARE - RESTON TOWN CENTER
RESTON, VA 20190-5061

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OCT 21 2005

OFFICE OF PETITIONS

In re Application of
Jaume Terradas Prat et al
Application No. 10/338,365
Filed: January 8, 2003
Attorney Docket No. FICO-001/00US

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3)
: AND UNDER 37 CFR 1.55(c)

This is a decision on the petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed September 22, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of prior-filed PCT Application No. PCT/EP01/08064, filed July 12, 2001, and under 35 U.S.C. § 119(a)-(d) for the benefit of prior-filed German Application No. 100 33 703.1, filed July 12, 2000.

The petitions are **GRANTED**.

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the above-noted, prior-filed PCT application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed PCT application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed PCT application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);**

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The above-identified pending nonprovisional application was filed on January 8, 2003, which is after November 29, 2000, and intermediate PCT Application No. PCT/EP01/08064 was filed on July 12, 2001, which is within 12 months of July 20, 2000, the earliest filing date of the foreign application to which benefit is claimed. The declaration filed on May 13, 2003 also identifies the

foreign application for which priority is claimed by application number, country and filing date.[1] Pursuant to petitioner's authorization, the $1,370 surcharge was charged to petitioner's deposit account. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is granted.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, and the foreign priority claim, has been mailed under separate cover.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) and 35 § U.S.C. 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3682 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed applications.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] The claim for benefit of the German application appearing in the amendment (and specification as filed) is more appropriately placed in either the oath or declaration or an Application Data Sheet, not as an amendment to the first line of the specification.

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LaHive & Cockfield LLP/Medarex
Floor 30, Suite 3000
One Post Office Square
Boston, MA 02109-2127

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APR 07 2010

OFFICE OF PETITIONS

In re Patent No. 7,387,776	:
Keler et al.	: DECISION UPON REMAND AND
Issue Date: June 17, 2008	: RECONSIDERATION OF
Application No. 10/338,366	: PATENT TERM ADJUSTMENT
Filed: January 7, 2003	: AND NOTICE OF INTENT
Attorney Docket No. MXI-180	: TO ISSUE CERTIFICATE OF
Title: Human Monoclonal	: CORRECTION
Antibodies Against CD30	:

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by five hundred and twenty-one (521) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by five hundred and twenty-one (521) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,387,776 B2

DATED : June 17, 2008 **DRAFT**

INVENTOR(S) : Keler 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 231 days

Delete the phrase "by 231 days" and insert – by 521 days--

PALM INTRANET

Day : Friday
Date: 4/2/2010
Time: 12:13:08

PTA Calculations for Application: 10/338366			
Application Filing Date:	01/07/2003	PTO Delay (PTO):	492
Issue Date of Patent:	06/17/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	261
Post-Issue Petitions:	0	Total PTA (days):	521
PTO Delay Adjustment:	290		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
118	04/02/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	290		
110.5	05/28/2008	PTA 36 MONTHS			
110	06/17/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
109	05/19/2008	EXPORT TO FINAL DATA CAPTURE			
108	05/14/2008	FINISHED INITIAL DATA CAPTURE			
107	05/14/2008	DISPATCH TO FDC			
106	04/09/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
105	04/04/2008	ISSUE FEE PAYMENT VERIFIED			
104	04/04/2008	ISSUE FEE PAYMENT RECEIVED			
103	01/25/2008	EXPORT TO INITIAL DATA CAPTURE			
102	01/17/2008	MAIL NOTICE OF ALLOWANCE			
101	01/17/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
100	01/15/2008	ISSUE REVISION COMPLETED			
99	01/15/2008	DOCUMENT VERIFICATION			
98	01/15/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
97	01/14/2008	NOTICE OF ALLOWABILITY			
96	01/08/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
93	11/15/2007	DATE FORWARDED TO EXAMINER			
92	10/30/2007	RESPONSE AFTER NON-FINAL ACTION		56	86
91	10/30/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
90	08/23/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			

89	07/30/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
88	07/30/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
87	06/04/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
86	06/04/2007	MAIL NON-FINAL REJECTION			
85	05/30/2007	NON-FINAL REJECTION			
84	05/23/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
83	04/05/2007	DATE FORWARDED TO EXAMINER			
82	03/21/2007	RESPONSE AFTER NON-FINAL ACTION			
81	08/25/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
80	08/25/2006	AMENDMENT CROSSED IN MAIL			
79	08/25/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
78	12/21/2006	MAIL NON-FINAL REJECTION			
77	12/18/2006	NON-FINAL REJECTION			
76	10/25/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
75	11/06/2006	DATE FORWARDED TO EXAMINER			
74	10/25/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
73	11/06/2006	DATE FORWARDED TO EXAMINER			
72	10/25/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)		92	59
71	11/06/2006	DISPOSAL FOR A RCE / CPA / R129			
70	10/25/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
69	11/02/2006	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
68	10/25/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
67	10/24/2006	MAIL ADVISORY ACTION (PTOL - 303)			
66	10/13/2006	ADVISORY ACTION (PTOL-303)			
65	10/04/2006	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
64	10/11/2006	DATE FORWARDED TO EXAMINER			
63	10/04/2006	AMENDMENT AFTER FINAL REJECTION			
62	10/04/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			

61	08/30/2006	MISCELLANEOUS INCOMING LETTER			
60	09/06/2006	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
59	04/25/2006	MAIL FINAL REJECTION (PTOL - 326)			
58	04/17/2006	FINAL REJECTION			
57	01/26/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
56	09/08/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
54	04/10/2006	CORRESPONDENCE ADDRESS CHANGE			
53	03/06/2006	DATE FORWARDED TO EXAMINER			
52	02/24/2006	RESPONSE AFTER NON-FINAL ACTION		29	47
51	02/13/2006	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
50	01/26/2006	REFERENCE CAPTURE ON IDS			
49.7	01/26/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
49	01/26/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
48	02/10/2006	DATE FORWARDED TO EXAMINER			
47.1	01/26/2006	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
47	01/26/2006	RESPONSE AFTER NON-FINAL ACTION		31	44
46	01/26/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
45	12/08/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
44	09/26/2005	MAIL NON-FINAL REJECTION			
43	09/19/2005	NON-FINAL REJECTION			
42	08/24/2005	DATE FORWARDED TO EXAMINER			
41	08/12/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
40	07/12/2005	MAIL RESTRICTION REQUIREMENT	492		-1
39	07/11/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
38	01/21/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
37	01/12/2004	CASE DOCKETED TO EXAMINER IN GAU			
36	12/22/2003	CASE DOCKETED TO EXAMINER IN GAU			
35.7	09/08/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
35	09/08/2003	INFORMATION DISCLOSURE STATEMENT (IDS)			

		FILED			
33	12/22/2003	APPLICATION RETURN FROM OIPE			
32	12/22/2003	APPLICATION IS NOW COMPLETE			
31	12/22/2003	PRE-EXAM OFFICE ACTION WITHDRAWN			
30	12/22/2003	APPLICATION RETURN TO OIPE			
29	12/22/2003	APPLICATION RETURN FROM OIPE			
28	12/22/2003	APPLICATION IS NOW COMPLETE			
27	01/07/2003	CLAIM PRELIMINARY AMENDMENT			
26	12/22/2003	PRE-EXAM OFFICE ACTION WITHDRAWN			
25	12/22/2003	APPLICATION RETURN TO OIPE			
24	12/19/2003	CORRESPONDENCE ADDRESS CHANGE			
23	12/22/2003	APPLICATION IS NOW COMPLETE			
22	12/19/2003	APPLICATION RETURN FROM OIPE			
21	12/22/2003	APPLICATION IS NOW COMPLETE			
19	12/22/2003	PRE-EXAM OFFICE ACTION WITHDRAWN			
18	12/19/2003	APPLICATION RETURN TO OIPE			
17	12/19/2003	APPLICATION RETURN FROM OIPE			
16	12/22/2003	APPLICATION IS NOW COMPLETE			
15	12/19/2003	PRE-EXAM OFFICE ACTION WITHDRAWN			
14	12/19/2003	APPLICATION RETURN TO OIPE			
13	09/09/2003	APPLICATION DISPATCHED FROM OIPE			
12	09/09/2003	APPLICATION IS NOW COMPLETE			
11	07/30/2003	ADDITIONAL APPLICATION FILING FEES		53	8
10	07/30/2003	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
9	07/30/2003	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
8	03/07/2003	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
6	02/11/2003	CLEARED BY L&R (LARS)			
5	02/05/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
4	01/27/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	01/16/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	01/07/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	01/07/2003	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

In re Patent No. 7,574,397	:	
Kline, et al.	:	DECISION DISMISSING
Application No. 10/338,370	:	REQUEST FOR
Issue Date: August 11, 2009	:	RECONSIDERATION OF
Filed: January 8, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 03-011	:	UNDER 37 CFR 1.705

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)-(d), filed August 21, 2009. Patentees request that the determination of patent term adjustment be corrected from one thousand two hundred seventy-four (1,274) days to one thousand nine hundred forty-five (1,945) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 1,274 days.

BACKGROUND

This application was filed on January 8, 2003. On August 11, 2009, the application matured into U.S. Patent No. 7,574,397, with a revised patent term adjustment of 1,274 days. The Office determined that the 1,311 days of Office delay, pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), overlaps with the 1,260 days of Office delay, pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) accorded during the pendency of the application. As such, the Office allowed entry of only the period of adjustment of 1,311 days. Given the 37 days of applicant delay, the patent issued with a revised patent term adjustment of 1,274 days.

On August 21, 2009, patentees timely submitted this request for reconsideration of patent term adjustment, asserting that the correct number of days of Patent Term Adjustment is 1,945 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). Accordingly, patentees maintain that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 2,571 (1,311 days for Office delay pursuant to 37 CFR 1.702(b) + 1,260 for Office delay pursuant to 37 CFR 1.702(a)(1)). Further, applicant asserts that 589 days of Office delay under 37 CFR 1.702(b) and 37 CFR 1.702(a)(1) overlap. Considering the aforementioned overlapping period and applicant delay of 37 days, patentees assert entitlement to a minimum of 1,945 days of patent term adjustment.

OPINION

Patentees' interpretation of the period of overlap has been considered, but found 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)*[1] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

---

[1] 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.

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

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 §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 beginning on the application filing date under 35 U.S.C. 111(a), January 8, 2003, and ending on the date the patent issued, August 11, 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)[2], 1,260 days[3] of patent term adjustment were accorded during the pendency of the application for Office delay prior to the issuance of patent. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[4], 1,311 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

All of the 1,311 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 1,260 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 1,311 days and the

---

[2] 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;

[3] A non-final Office action was mailed on August 20, 2007, 14 months and 1,260 days after the application was filed on January 8, 2003.

[4] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

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.

1,260 days is neither permitted nor warranted. The Office accorded the greater period of 1,311 days for Office delay.

Accordingly, at issuance, the Office properly entered 51 additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

CONCLUSION

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 1,274 days.

The petition fee of $200.00 fee as set forth in 37 CFR 1.18(e) is noted. No additional fees are required.

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

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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MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO, IL 60606

Mail Date: 04/20/2010

Applicant	: Robert J. Kline	: DECISION ON REQUEST FOR
Patent Number	: 7574397	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/338,370	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/08/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1920** 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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MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO, IL 60606

Mail Date: 05/17/2010

Applicant : Robert J. Kline
Patent Number : 7574397
Issue Date : 08/11/2009
Application No: 10/338,370
Filed : 01/08/2003

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1945** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO IL 60606

In re Patent No. 7,574,397	:	
Kline, et al.	:	DECISION DISMISSING
Application No. 10/338,370	:	REQUEST FOR
Issue Date: August 11, 2009	:	RECONSIDERATION OF
Filed: January 8, 2003	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
03-011	:	

This is in response to the "Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(b)-(d)" filed May 20, 2010, which is properly treated under 37 C.F.R. § 1.705(d). Patentees requests that the determination of patent term adjustment be corrected to one thousand, nine hundred and forty-five (1,945) days.

The request for reconsideration of patent term adjustment is **DISMISSED AS MOOT** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 1,945 days.

A review of the record reveals that a "Notice Concerning Improper Calculation of Patent Term Adjustment Based Upon USPTO Improperly Measuring Reduction Period under 37 CFR 1.704(c)(10)" was mailed on May 17, 2010, indicating that the revised patent term adjustment is 1,945 days. The instant petition does not request any relief other than what is provided in the notice mailed May 17, 2010. The petition is dismissed as moot, accordingly.

The petition fee under 37 CFR 1.18(e) will be refunded, in due course.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COOLEY GODWARD LLP
ATTN: PATENT GROUP
FIVE PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO CA 94306-2155

COPY MAILED

JAN 0 4 2007

OFFICE OF PETITIONS

In re Application of :
James R. Mault, et al. :
Application No. 10/338,391 : DECISION ON PETITION
Filed: January 8, 2003 : TO WITHDRAW
Attorney Docket No. HTEC-031/02US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed September 29, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Cliff Z. Liu on behalf of all attorneys of record who are associated with customer No. 23419.

All attorneys/agents associated with the Customer Number 23419 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The previously filed power of attorney does not include the proper chain of title.

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
Petitions Examiner
Office of Petitions

cc: JAMES R. MAULT
30589 MONARCH
EVERGREEN, COLORADO 80439

cc: STANIFORD, GEOFFREY
COURTNEY STANIFORD & GREGORY LLP
10001 NORTH DE ANZA BOULEVARD
SUITE 300
CUPERTINO CA 95014

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/338,391	01/08/2003	James R. Mault	MJA-26002/03

CONFIRMATION NO. 1940

OC000000021796683

OC000000021796683

COOLEY GODWARD LLP
ATTN: PATENT GROUP
FIVE PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306-2155

Date Mailed: 12/29/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/29/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : October 23,2007

TO SPE OF : ART UNIT 2161

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/338,392 Patent No.: 7152072 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

APU MOFIZ
SUPERVISORY PATENT EXAMINER
SPE

2161
Art Unit

PAGE 1/1 * RCVD AT 11/6/2007 4:55:04 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/5 * DNIS:2709990 * CSID:3086606 * DURATION (mm-ss):00-50

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : October 23,2007

Paper No.: X

TO SPE OF : ART UNIT 2161

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/338,392 Patent No.: 7152072 B2

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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.

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DO NOT SENT TO ATTORNEY

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Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

APU MOFIZ
SUPERVISORY PATENT EXAMINER
SPE

2161
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

11/06/07 TUE 17:47 FAX 3086606 U-S-P-T-O 001

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Paper No.

SNELL & WILMER LLP
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA, CA 92626

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OCT 0 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Kurata et al.	:	DECISION ON PETITION
Application No. 10/338,408	:	
Filed: January 8, 2003	:	
Atty Docket No. 72478-3600	:	

This is a decision on the PETITION UNDER 37 CFR § 1.182, filed June 19, 2006.

The petition is **GRANTED**.

The order of the names of the inventors has been changed as follows:

1. KURATA, Kazushi
2. TANAKA, Tetsuya
3. HIGAKI, Nobuo
4. HAYASHI, Kunihiko
5. KADOTA, Hiroshi
6. KIYOHARA, Tokuzo
7. KIMURA, Kozo
8. NISHIDA, Hideshi
9. FURUKAWA, Kazuya
10. FUJII, Shigeki
11. SUGIMURA, Toshio

A filing receipt reflecting this change is enclosed.

The record shows that this petition was originally filed on December 30, 2005 and the petition fee of $400 was charged at that time.

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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/338,408	01/08/2003	2183	1882	72478-3600	34	71	4

CONFIRMATION NO. 2081

21611
SNELL & WILMER LLP
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA, CA 92626

REPLACEMENT FILING RECEIPT

OC000000020670617

Date Mailed: 10/02/2006

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)

Kazushi Kurata, Takatsuki-shi, JAPAN;
Tetsuya Tanaka, Souraku-gun, JAPAN;
Nobuo Higaki, Kobe-shi, JAPAN;
Kunihiko Hayashi, Takatsuki-shi, JAPAN;
Hiroshi Kadota, Toyonaka-shi, JAPAN;
Tokuzo Kiyohara, Osaka-shi, JAPAN;
Kozo Kimura, Toyonaka-shi, JAPAN;
Hideshi Nishida, Nishinomiya-shi, JAPAN;
Kazuya Furukawa, Ibaraki-shi, JAPAN;
Shigeki Fujii, Neyagawa-shi, JAPAN;
Toshio Sugimura, Takarazuka-shi, JAPAN;

Power of Attorney: The patent practitioners associated with Customer Number **21611**.

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN JP2002-002816 01/09/2002
JAPAN JP2003-001616 01/07/2003

If Required, Foreign Filing License Granted: 03/03/2003

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/338,408

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Processor and program execution method capable of efficient program execution

Preliminary Class

712

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING

LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Paper No.

SNELL & WILMER LLP (OC)
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA CA 92626

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APR 06 2007

OFFICE OF PETITIONS

In re Application of :
Kazushi Kurata : DECISION ON
Application No. 10/338,408 : PETITION
Filed: January 8, 2003 :
Attorney Docket No. 72478-3600:

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), filed January 31, 2007.

The petition is **GRANTED**.

The above-identified application was abandoned for failure to file a timely and proper reply to the final Office action mailed March 21, 2006. This Office action set a shortened statutory period for reply of three (3) months from the mail date of the action. An amendment filed June 19, 2006 and an amendment, made timely by an accompanying petition and extension of time for response within the first month, were filed on July 14, 2006. However, both replies were determined by the examiner to not place the application in condition for allowance (Advisory Actions mailed July 3, 2006 and February 2, 2007). No proper reply having been received and no further extension of time obtained the application became abandoned effective July 22, 2006. The instant petition precedes the mailing of a courtesy Notice of Abandonment.

On petition, petitioner submitted a Request for Continued Examination (RCE) and submission under §1.114 (in the form of an amendment)(and RCE fee); paid the petition fee; and made the required statement of unintentional delay.

Technology Center AU 2183 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the RCE and submission submitted on petition filed January 31, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100511

DATE : May 11, 2010

TO SPE OF : ART UNIT 2183 10/338,408

SUBJECT : Request for Certificate of Correction on Patent No.: 7,386,707

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments:

The Certificate of Correction for correcting the typo has been entered.
D.P.

/Eddie P Chan/
Supervisory Patent Examiner, Art Unit 2183

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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SEP 20 2004

DANN, DORFMAN, HERRELL AND SKILLMAN
1601 MARKET STREET-SUITE 2400
PHILADELPHIA, PENNSILVANIA 19103

In re Application of	:
Tauseef Butt et al.	:
Serial No.: 10/338,411	: PETITION TO MAKE SPECIAL
Filed: 07 January 2003	:
Attorney Docket No: 1955-2792US1	:

This is in response to applicant's petition filed 04 August, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, section XII. 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 Jean F. Vollano by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0648 or by facsimile transmission to the general Office facsimile number 703-872-9306.

Jean F. Vollano
Special Program Examiner
Technology Center 1600

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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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

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SEP 2 9 2006

OFFICE OF PETITIONS

In re Application of :
Kreiner, et al. :
Application No. 10/338,412 : DECISION ON PETITION
Filed: January 8, 2003 : TO WITHDRAW
Attorney Docket No. BELL-0208/02127 : 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**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because the customer number that is listed in the withdrawal is not the customer number that was appointed in the oath.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: POTOMAC PATENT GROUP, PLLC
P.O. BOX 270
FREDERICKSBURG VA 22404

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United States Patent and Trademark Office
P.O. Box 1450
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Mark C. Pickering
Law Offices of Mark C. Pickering
P.O. Box 300
Petaluma, CA 94953

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OFFICE OF PETITIONS

In re Application of :
TOOLEY, et al. :
Application No. 10/338,416 : DECISION ON PETITION
Filed: January 07, 2003 : TO WITHDRAW
Attorney Docket No. 300-80000 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 05, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Mark C. Pickering on behalf of all attorneys of record.

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 assignee of the entire interest at the first copied address below 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 Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

cc: LUCAS DIGITAL LTD., LLC
P.O. Box 2459
San Rafael, CA 94912

cc: FISH & RICHARDSON
12390 El Camino Real
San Diego, CA 92130

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PHILADELPHIA, PA 19103

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OCT 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Barrett M. Kreiner et al	:	
Application No. 10/338,422	:	DECISION ON PETITION
Filed: January 8, 2003	:	TO WITHDRAW
Attorney Docket No. 0220-092	:	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** as moot.

A review of the file record indicates that the power of attorney associated with the Customer Number 38952 has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.136(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 Wan Laymon at 571-272-3220.

This matter is being referred to Technology Center AU 2876.

David Bucci
Petitions Examiner
Office of Petitions

cc: POTOMAC PATENT GROUP
P.O. BOX 270
FREDERICKSBURG, VA 22404

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

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SEP 28 2007

OFFICE OF PETITIONS

In re Patent No. 7,067,039 :
Issue Date: June 27, 2006 :
Application No. 10/338,449 : ON PETITION
Filed: January 8, 2003 :
Attorney Docket No. 33047/258401 :

This is a decision on the petition under 37 CFR 1.182, filed June 13, 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.

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P.O. Box 1450
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PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET, SUITE 2100
SAN DIEGO, CA 92101

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AUG 0 1 2006

OFFICE OF PETITIONS

In re Application of :
Larry O. ROUSE :
Application No. 10/338,472 : DECISION ON PETITION
Filed: January 1, 2003 : TO WITHDRAW
Attorney Docket No. 1354-PA01 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 2, 2005.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The 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, attorney of record has switched law firm, 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 Monica Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Gary L. Eastmand, Esq.
Eastman & Associates
707 Broadway Street, Suite 1800
San Diego, CA 92101

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **2/12/09**

TO SPE OF : ART UNIT **1795 (1700)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/338,507** Patent No.: **7,435,509**
Attn: Julian Mercado

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
South Tower - 9A22
Palm Location 7580

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____ 1795
SPE **Art Unit**

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Paper No. 081604

PILLSBURY WINTHROP LLP
2550 HANOVER STREET
PALO ALTO, CA 94304-1115

SEP - 7 2004

In re Application of:	:	
DEPPE *et al.*	:	
Serial No.: 10/338,509	:	DECISION ON REQUEST TO WITHDRAW
Filed: January 07, 2003	:	FROM RECORD
Attorney Docket No.: **051773/0301189**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed July 26, 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 James E. Eakin, 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 Gary Williams, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: GARY WILLIAMS
MORGAN LEWIS & BOCKIUS LLP
3300 HILLVIEW AVENUE
PALO ALTO, CA 94304-1203

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner of Patents

MAR -9 2005

Thomas Spinelli
Applied Technology Center
111 West Main Street
Bayshore, NY 11706

In re Application of	:	
SPINELLI	:	
Serial No.10/338,519	:	Decision on
Filed January 8, 2003	:	Petition
For: Shape Memory Safety Utensil	:	

A Notice of Abandonment for the above-identified application was mailed October 15, 2004. Applicant filed a petition to withdraw the Holding of Abandonment under 37 CFR 1.181 on June October 25, 2004. In the petition applicant provides a copy of the amendment filed by facsimile transmission on June 28, 2004 in response to an Office action mailed March 26, 2004. The response would have been considered timely since June 26, 2004 was a Saturday. In the petition there is a copy of a facsimile receipt from the facsimile machine used for transmission showing a completed transmission on June 28, 2004.

In view of the above, the Notice of Abandonment mailed October 15, 2004 is in error. The **Holding of Abandonment is Withdrawn**. This application is being forwarded to the examiner for appropriate action.

Richard A. Bertsch, Director
Technology Center 3700

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Paper No. ____

TRASK BRITT
P O BOX 2550
SALT LAKE CITY, UT 84110

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MAR 1 0 2004

OFFICE OF PETITIONS

In re Application of
Chad A. Cobbley et al
Application No. 10/338,522
Filed: January 8, 2003
Attorney Docket No. 2269-3437.6US
(97-0514.06/US)

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed March 5, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 9, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter will be referred to Technology Center AU 2829 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Mohammed Kamran Shah	: DECISION ON REQUEST FOR
Patent Number	: 7620897	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/338,533	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/08/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1807** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

Mail Date: 05/17/2010

Applicant : Mohammed Kamran Shah
Patent Number : 7620897
Issue Date : 11/17/2009
Application No: 10/338,533
Filed : 01/08/2003

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1861** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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ROOM 2A-207
ONE AT&T WAY
BEDMINSTER NJ 07921

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OFFICE OF PETITIONS

In re Application of
Anthony L. Sorrentino et al.
Application No. 10/338,560
Filed: January 8, 2003
Attorney Docket No. 130332.00067

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed April 23, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned December 16, 2008 for failure to timely file an Appeal Brief within two months of the Notice of Appeal filed October 14, 2008 with a one month extension of time and a certificate of mail dated October 9, 2008, in response to the Final Office Action mailed June 9, 2008. Accordingly, the Notice of Abandonment was mailed September 28, 2009.

Petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 2454 for processing of the RCE.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 5

FULBRIGHT & JAWORSKI
600 CONGRESS AVENUE
SUITE 2400
AUSTIN, TX 78701

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MAY 07 2003

OFFICE OF PETITIONS

In re Application of :
Robert A. Valeri et al :
Application No. 10/338,566 : NOTICE
Filed: January 7, 2003 :
Attorney Docket No. ESSR:029USD1 :

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 1762.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 5

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JUN 16 2003

OFFICE OF PETITIONS

THE SCRIPPS RESEARCH INSTITUTE
OFFICE OF PATENT COUNSEL, TPC-8
10550 NORTH TORREY PINES ROAD
LA JOLLA CA 92037

In re Application of :
Fitchen, et al. : ON PETITION
Application No. 10/338,592 :
Filed: January 7, 2003 :
Attorney Docket No. TSRI 312.1 C1 :
For: METHOD FOR USING TOBACCO MOSAIC VIRUS TO OVERPRODUCE PEPTIDES AND PROTEINS

This is a decision on the petition filed April 23, 2003 (certificate of mailing date April 18, 2003), requesting, in effect, that the Notice to Comply with Requirement for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (Notice), mailed February 19, 2003, be withdrawn, insofar as it alleges that Figures 4,6,8,9,10,12,13,14,16, and 17 appeared to have been omitted from the application. The petition will be treated under 37 CFR 1.53(e).

The petition is **dismissed**.

The application was filed on January 7, 2003. However, on February 19, 2003, the Office of Initial Patent Examination mailed a Notice stating that the application had been accorded a filing date of January 7, 2003, and advising applicants that Figures 4,6,8,9,10,12,13,14,16, and 17 described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioners provide a copy of their return receipt postcard that contains an affixed Office generated barcode citing January 7, 2003 as the filing date. This return receipt postcard lists, *inter alia*, that the filing contained 23 pages of drawings. A review of the application file reveals that there are 23 pages present. None of the sheets of drawings contain Figures 4,6,8,9,10,12,13,14,16, and 17.

The petition does not allege and is not accompanied by any evidence that any sheets of drawings containing the labels Figures 4,6,8,9,10,12,13,14,16, and 17 were present in the Office on January 7, 2003. While the Brief Description of the Drawings lists Figures 4,6,8,9,10,12,13,14,16, and 17, the actual drawing figures in question contain only a "FIGxA", "FIGxB" etc. It is apparent that petitioners referred to the drawings in an inconsistent manner in the Brief Description of the Drawings and in the drawing figures.

Therefore, the "Notice" mailed February 19, 2003, was correct in advising applicants that Figures 4,6,8,9,10,12,13,14,16, and 17 appeared to have been omitted. The "Notice" was properly mailed and will not be withdrawn. The petition fee is required, since the petition was not necessary to correct any PTO error.

To avoid further delay in the examination of the application, a letter to the draftsman correcting the labeling of the drawing figures should be filed prior to the first Office action.

The application is being returned the Office of Initial Patent Examination for further processing with the presently accorded filing date of January 7, 2003.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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Jocelyn Jefferson
P.O. Box 72436
Los Angeles CA 90002

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MAY 10 2007

OFFICE OF PETITIONS

In re Application of :
Jocelyn Sabrina Jefferson :
Application No. 10/338,605 : DECISION ON PETITION
Filed: 01/06/2003 :
Title: WHEELCHAIR/STROLLER :
WEATHER COVER :

This is a decision on the petition under 37 CFR 1.137(b), filed October 12, 2006, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment for the above-identified application. This is also in response to the request for a refund filed on October 26, 2006.

This application was held abandoned for failure to respond timely to the Notice of Noncompliant Amendment mailed on March 1, 2006, which set an extendable period of thirty days or one month, which ever was longer, to reply. In the apparent absence of a timely filed reply, the application was held abandoned and a Notice of Abandonment was mailed on September 19, 2006.

Petitioner asserts that she filed a timely reply in response to the Notice of Noncompliant Amendment. A copy of the response accompanies the petition.

Upon a review of the record, the Office has located the reply filed on March 31, 2006, in response to the Notice of Noncompliant Amendment. Accordingly, the petition is granted. The grant of a petition under 37 CFR 1.137 is not a determination that any reply under 37 CFR 1.111 is complete. After revival of the application, the patent examiner may, upon more detailed review, determine that the reply is lacking in some respect.

The Notice of Abandonment is hereby withdrawn. The application is restored to pending status in view of the fact that a response was timely filed and received on March 31, 2006. The $640.00 fee submitted with the petition is unnecessary and will be refunded to petitioner by treasury check in due course.

The matter is being referred to the Technology Center Art Unit 3637 for a review of the reply submitted on March 31, 2006.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

LORIMER P. BROOKS, ESQ.
NORRIS, MCLAUGHLIN & MARCUS
P.O. BOX 1018
SOMERVILLE, N.J. 08876-1018

In re Application of
Constantine N. Manis et al.
Application No. 10/338,615
Filed: January 8, 2003

For: POWER LINE COMMUNICATIONS SYSTEM COMBINING HIGH BITRATE AND LOW BITRATE TRANSMISSIONS

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as agent of record filed on June 16, 2005.
A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

Attorneys/agents associated in Customer No. 23526 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: MR. JAMES REEBER
ARKADOS, INC.
948 U.S. HIGHWAY #22 EAST
NORTH PLAINFIELD, NEW JERSEY 07060

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JAMES P. HANRATH
191 NORTH WACKER DRIVE
SUITE 1800
CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Application of :
Gerry Mavin :
Application No. 10/338,758 : DECISION ON PETITION
Filed: January 7, 2003 :
Attorney Docket No. :
A-71981/RBC/VEJ

This is a decision on the petition under 37 CFR 1.137(b), filed October 5, 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 10, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed October 10, 2006. Accordingly, the date of abandonment of this application is January 11, 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 $1,440 and the publication fee of $300, (2) the petition fee of $1,540, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES, CA 90013-1024

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In re Application of :
DIAZ, Joseph R. et al. :
Application No. 10/338,768 : DECISION ON PETITION
Filed: January 06, 2003 : TO WITHDRAW
Attorney Docket No. **480102005000** : 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 09, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Morrrison & Foerster, LLP has been revoked by the assignee of the patent application on May 28, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **RUTAN & TUCKER, LLP.**
611 ANTON BLVD
SUITE 1400
COSTA MESA, CA 92626

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United States Patent and Trademark Office
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Paper No. 6

Stallman & Pollock, LLP
Attn: Brian J. Keating
121 Spear Street, Suite 290
San Francisco, CA 94105

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SEP 0 4 2003

OFFICE OF PETITIONS

In re Application of :
Albrecht et al. :
Application No. 10/338,779 : DECISION GRANTING PETITION
Filed: January 6, 2003 :
Attorney Docket No. LMPY-8850 :
[238/U] :

This is a decision on the petition filed August 1, 2003, requesting that the above-identified application be accorded a filing date of January 6, 2003, with the pages of claims and abstract (pages 103-116) as part of the original disclosure.

On January 6, 2003, applicants deposited the above-identified application. However, on April 21, 2003, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Nonprovisional Application," stating that the specification did not include at least one claim. Additionally, the Notice required applicants to submit an oath or declaration, the statutory basic filing fee, and an abstract in compliance with 37 CFR 1.72(b).

In response, on August 1, 2003, applicants filed, inter alia, the present petition, a copy of the application papers, and paid the $130.00 petition fee. Additionally, applicants submitted a copy of their postcard receipt; however, it did not contain a USPTO date-stamp. Applicants requested that the application, including the pages of claims and abstract (pages 103-116), be accorded a filing date of January 6, 2003.

Upon review of the record, pages 103-116 (pages of claims and abstract) have not been located in the official file. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The Office file is the official record of what was filed on January 6, 2003. It is for this reason that the Office has established a practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. A postcard receipt, which itemizes and properly

identifies the papers being filed, serves as prima facie evidence of receipt in the Office of all the items listed thereon on the date stamped by the Office. See MPEP 503. Unfortunately, the postcard receipt submitted with the present petition does not contain a USPTO date-stamp. Therefore, the postcard receipt without a date-stamp cannot serve as evidence of receipt of pages 103-116 in the USPTO on January 6, 2003.

Upon further review of the specification, it appears that the present application is a continuation-in-part of US application No. 10/114,184, filed April 1, 2002, which was incorporated by reference. Section 201.06(c) of the Manual of Patent Examining Procedure states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

Obviously, in view of the incorporation by reference of application No. 10/114,184, pages 103-116 are not new matter if they were part of the disclosure of the nonprovisional application.

Accordingly, the petition is granted.

The Notice of April 21, 2003, did not set forth an extendable period of time to respond. See 37 CFR 1.181(f). Nevertheless, the Office has treated the decision on the merits. Accordingly, the $410.00 extension of time fee will be refunded to Deposit Account No. 50-1703.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of January 6, 2003, using pages 103-116 submitted with the present petition.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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FISH & RICHARDSON, PC
12390 EL CAMINO REAL
SAN DIEGO CA 92130-2081

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OFFICE OF PETITIONS

In re Patent No. 6,746,877 :
Issued: 8 June, 2004 :
Application No. 10/338,798 : ON PETITION
Filed: 7 January, 2003 :
Attorney Docket No. :
14580/011001/FP1823/EC :

This is a decision on the petition filed on 18 January, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

It is noted that although the assignment document itself correctly captions the assignees' names, the Recordation Form Cover Sheet miscaptions the assignee's name as "Infineon Technologies AG." Therefore, it is recommended that petitioners submit a corrected cover sheet in accordance with MPEP 323.01 and 37 CFR 3.34.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] See Official Gazette of 22 June, 2004.

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MIRICK OCONNELL DEMALLIE & LOUGEE
1700 WEST PARK DR
WESTBOROUGH MA 01581

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OFFICE OF PETITIONS

In re Application of
Weiss, et al. :
Application No. 10/338,804 : DECISION ON
Filed: January 8, 2003 : PETITION
Attorney Docket No. 15876-46024 :

This is in response to the petition, filed January 20, 2006, to revive an unintentionally abandoned application under 37 CFR 1.137(b).

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee as required by the Notice of Allowance mailed on August 10, 2005. This notice set a statutory period for reply of three months. No issue fee having been received, the above-identified application became abandoned on November 11, 2005. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, petitioner paid the petition fee together with the issue fee, and made the proper statement of unintentional delay.

The application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 27 2007

TO SPE OF : ART UNIT 2876

SUBJECT : Request for Certificate of Correction for Appl. No. 10/338812patent 7032817

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Applicant filed correction of inventorship on 4/13/05, which is approved.

SPE

2876
Art Unit

Docket No.: B0651.70011US00
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Eric Blank et al.
Serial No.:	10/338,812
Confirmation No.:	3000
Filed:	January 8, 2003
Patent No.:	7,032,817
For:	TRANSACTION CARD ASSEMBLY WITH SHAPED EDGE
Examiner:	A. Kim
Art Unit:	2876

- OK to enter AK 9/17/05

Certificate of Electronic Filing Under 37 CFR 1.8

Dated: April 9, 2007

Lisa Robillard

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

Dear Sir:

Upon reviewing the above-identified patent, Patentee noted a typographical error which should be corrected.

Please update your records to add additional inventors Joseph T. Mandile and David A. Jacobs, as a Petition was filed on April 13, 2005 with the required fee.

Transmitted herewith is a proposed Certificate of Correction effecting such amendment. Patentee respectfully solicits the granting of the requested Certificate of Correction.

Dated: April 9, 2007

Respectfully submitted,

By _____

Robert E. Hunt
Registration No.: 39,231
WOLF, GREENFIELD & SACKS, P.C.
Federal Reserve Plaza
600 Atlantic Avenue
Boston, Massachusetts 02210-2206
(617) 646-8000

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,032,817
APPLICATION NO.	:	10/338,812
ISSUE DATE	:	April 25, 2006
INVENTOR(S)	:	Eric Blank 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 the first page of the patent, please add inventors "Joseph T. Mandile, Middleboro, MA (US) and David A. Jacobs, Hopkinton, MA (US)."

Certificate of Electronic Filing Under 37 CFR 1.8

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4).

Dated: April 9, 2007 Signature: Lisa Robillard (Lisa Robillard)

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Robert E. Hunt
WOLF, GREENFIELD & SACKS, P.C.
Federal Reserve Plaza
600 Atlantic Avenue
Boston, Massachusetts 02210-2206

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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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PAUL, HASTINGS, JANOFSKY & WALKER LLP
P.O. BOX 919092
SAN DIEGO, CA 92191-9092

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OFFICE OF PETITIONS

In re Application of
Holdsworth, John
Application No. 10/338,822
Filed: January 7, 2003
Attorney Docket No. 45385.00013.UTL1.

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed October 5, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on August 28, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of February 24, 2004 accompanies this decision on petition.

This matter is being referred to Technology Center Art Unit 2131 for examination in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No.

Stephen S. Kornicsky, Esq.
BAKER & MCKENZIE LLP
Patent Department
2001 Ross Avenue, Suite 2300
Dallas, TX 75201

MAILED

FEB 01 2006

TECHNOLOGY CENTER 2100

In re Application of:
Holdsworth
Application No. 10/338,822
Filed: January 7, 2003
For: SYSTEMS AND METHODS FOR SECURE AUTHENTICATION OF ELECTRONIC TRANSACTIONS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed December 2, 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 filed December 2, 2005 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

/JR/ James R. Matthews

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3595

cc: BAKER & MCKENZIE
101 West Broadway, Twelfth Floor
San Diego, CA 92101

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FEB 11 2005

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

In re Application of:	:	
NATORI, KANJI	:	
Application No. 10/338,834	:	DECISION ON PETITION TO WITHDRAW
Filed: January 09, 2003	:	HOLDING OF ABANDONMENT
Attorney Docket No.: 114646	:	

This is a decision on the petition filed, August 06, 2004, requesting withdrawal of the holding of abandonment for the above-identified application.

The petition is **granted.**

The application was held abandoned for failure to pay the issue fee in response to the Notice of Allowance and Issue Fee Due (Notice of Allowance) mailed April 19, 2004.

The petitioner asserts that the Office action was not received by the practitioner. To support this assertion, the petitioner has provided, *inter alia*, a statement from the practitioner that a thorough search of the file jacket and docket records revealed that the petitioner did not receive the Notice of Allowance and a copy of the practitioner's docket records that demonstrate where the non-received Notice of Allowance would have been entered had it been received by the practitioner at the address of record.

A review of the written record reveals that the above-identified Office action was returned to the U.S. Patent and Trademark Office (PTO) on April 28, 2004. The PTO did not re-mail the Notices pursuant to MPEP 707.13. Accordingly, the application was not abandoned in fact.

In view of the above, the petition is granted. The holding of abandonment is withdrawn.

The application file is being forwarded to the Technology Center 2800 support staff for re-mailing the Notices dated April 19, 2004. The statutory periods for response set therein will be reset to run three months from the date the Notices are re-mailed. Extensions of time for these statutory periods are not available - See 37 C.F.R. §1.136(c) effective November 07, 2000.

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (571) 272-1596.

James L. Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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C/O ANTHONY CASTORINA
2001 JEFFERSON DAVIS HIGHWAY
SUITE 207
ARLINGTON, VA 22202

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OFFICE OF PETITIONS

In re Application of	:	
Shamir Leibovitz et al	:	
Application No. 10/338,850	:	ON PETITION
Filed: January 9, 2003	:	
Attorney Docket No. 25537	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 17, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Office action mailed October 5, 2004, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 6, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

The matter is being referred to Technology Center AU 1644 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FREEDMAN & ASSOCIATES
117 CENTREPOINTE DRIVE
SUITE 350
NEPEAN, ONTARIO
K2G 5X3
CANADA

AIR MAIL

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JUN 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Roger Guevremont et al :
Application No. 10/338,852 : NOTICE
Filed: January 9, 2003 :
Attorney Docket No. 151-03 US(3) :

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 application file is being referred to Technology Center AU 2881.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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SUITE 350
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K2G 5X3
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OFFICE OF PETITIONS

In re Application of :
Roger Guevremont et al :
Application No. 10/338,858 : NOTICE
Filed: January 9, 2003 :
Attorney Docket No. 151-03 US(1) :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This application file is being referred to Technology Center AU 2881.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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JUN 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Roger Guevremont et al :
Application No. 10/338,859 : NOTICE
Filed: January 9, 2003 :
Attorney Docket No. 151-03 US(2) :

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 application file is being referred to Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 101904

OCT 26 2004

Intellectual Property Department
LaserComm, Inc.
2600 Technology Drive - Suite 900
Plano, TX 75074

In re Application of:	:	
LYSIANSKY *et al.*	:	
Serial No.: 10/338,865	:	DECISION ON REQUEST TO WITHDRAW
Filed: January 09, 2003	:	FROM RECORD
Attorney Docket No.: **LCP-027**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed September 22, 2004.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. Simon Kahn signed the request, on behalf of himself. It is noted that the application is now abandoned.

The request is **APPROVED**.

Edward Langer remains of record at this time.

The correspondence address has been changed to the address of the Assignee. All future communications from the Office will be directed to Lasercomm, Inc., at the above 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: Simon Kahn
P.O. Box 34598
Jerusalem, Israel 91035 AIRMAIL

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 101904

OCT 26 2004

Intellectual Property Department
LaserComm, Inc.
2600 Technology Drive - Suite 900
Plano, TX 75074

In re Application of:
LYSIANSKY *et al.*
Serial No.: 10/338,865
Filed: January 09, 2003
Attorney Docket No.: **LCP-027**

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 September 22, 2004.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. Simon Kahn signed the request, on behalf of himself. It is noted that the application is now abandoned.

The request is **APPROVED**.

Edward Langer remains of record at this time.

The correspondence address has been changed to the address of the Assignee. All future communications from the Office will be directed to Lasercomm, Inc., at the above 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: Simon Kahn
P.O. Box 34598
Jerusalem, Israel 91035 AIRMAIL

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

KI-HYUNG KANG

Serial No.:	10/338,910	Examiner:	Schechter, Andrew M.
Filed:	9 January 2003	Art Unit:	2871

For: *PROJECTION SYSTEM AND METHOD FOR REFLECTION-TYPE LIQUID CRYSTAL DISPLAY*

PETITION UNDER 37 CFR §1.181

Mail Stop Petition
Commissioner For Patents
P.O. Box 1450
Alexandria, VA., 22313-1450

Sir:

In response to the first Office action (Paper No. 20040202), mailed 2 March 2004, entry and consideration of the following timely filed petition is respectfully requested.

Folio: P56734
Date: 8 March 2004
I.D.: REB/Rsh

STATEMENT OF FACTS

1. On the 2nd of March 2004 the Examiner mailed a first Office Action (Paper No. 20040202). Paper No. 20040202 mentioned the requirement of labeling Figure (1) "Prior Art."

2. Three copies of Decisions on Petition for the following references previously issued by Group Directors are enclosed:

- Paper No. 21 issued on 25 February 1998 for U.S. Application S.N. 08/447,279 filed on 22 May 1995;
- Paper No. 15 issued on 2 October 1996 for U.S. Application S.N. 08/343,939 filed on 17 November 1994; and
- Paper No. (unknown) issued on 15 December 1999 for U.S. Application S.N. 08/985,544 filed on 5 December 1997.

ARGUMENTS AND/OR REMARKS

In Paper No. 20040202, the Examiner objected to Fig. (1) as not being labeled as "Prior Art" stating that "only that which is old is illustrated", and referring to MPEP §608.02(g), which states:

> Figures showing the prior art are usually unnecessary and should be cancelled, Ex parte Elliott, 1904 C.D. 103; 109 O.G. 1337. However, where needed to understand applicant's invention, they may be retained if designated by a legend such as "Prior Art."
>
> If the prior art figure is not labeled, the following paragraph may be used.
>
> Figure (1) should be designated by a legend such as Prior Art in order to clarify what is applicant's invention. (See MPEP w 608.02(g)).

Applicant has explained that Fig. (1) is not "Prior Art".

First, nothing in any paragraph of 35 U.S.C. §102 suggests that subject matter which is "old" constitutes prior art.

Second, §608.02(g) merely suggests that labels accompanying some of the drawings are not inappropriate. Additionally, §608.02(g) uses the phrase "such as "Prior Art"". Accordingly, §608.02(g) does not require a figure to be labeled as "Prior Art", but merely suggests that the figure be labeled in some manner in view of the phrase "should be designated by a legend such as Prior Art in order to clarify what is applicant's invention". Thus, §608.02(g) does not state that the figure must be labeled. Further, the Applicant's invention is defined by the claims, and pending elected claims are drawn towards apparatus which can not be confused by the illustration of Fig. (1). In other words, Fig. (1) does not need to be labeled in order to clarify what is Applicant's invention as set forth by the pending claims.

Third, Fig. (1) is not believed to constitute "Prior Art" as that term is defined by either 35 USC §102 or 35 USC §103. As evidenced from the Declaration/Oath, the Applicant is a citizen of Korea, and, as such, devised Fig. (1) in Korea in order to illustrate Applicant's discovery of problems plagued in the art. Therefore, since there is no showing that Fig. (1) was known to anyone other than the Applicant *in this country* nor is there a showing that Fig. (1) was *patented or published in this country or a foreign country*, then Fig. (1) can not be deemed to be "Prior Art" absent evidence to the contrary.

Fourth, Fig. (1) is simply an abstract representation of the art prepared by the Applicant in an effort to illustrate Applicant's discovery of problems plagued in the art in accordance with 37 CFR §1.83(b); this discovery is itself, together with Appellant's abstraction of the art represented by Fig. (1), part of the Applicant's invention. By identifying deficiencies in the prior art and then addressing those deficiencies, Applicant completes the inventive process. As such, Applicant's effort to identify deficiencies or other undesirable features in the art, does not constitute "Prior Art" as that term is used under 35 USC §103, and defined by 35 USC §§102(a)-(g).

Fifth, Applicant has never made any statement admitting that Fig. (1) is "Prior Art". The present application is based on, and is a translation of, Korean Application Serial No. 2002-22530 on which the Applicant has claimed priority as evidenced by the Declaration (Oath). MPEP §706.02(c) states, in part:

> "The language "in this country" means in the United States only and does not include other WTO or NAFTA member countries."

There is no evidence that Fig. (1) exists in any printed form other than in the present application and it's priority document. There is evidence to indicate that Applicant devised the subject matter in Fig. (1) however, and that evidence lies in the fact that the only existence of Fig. (1) is in the present application and it's priority document.

REMEDY REQUESTED

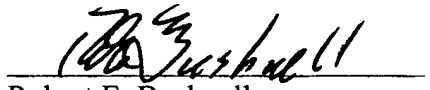
The Commissioner is respectfully requested to:

A. Withdraw the requirement to label Fig.(1) as "Prior Art";

B. Return the prosecution history to the Examiner to reprove any assertion that Fig. (1) should be identified as "Prior Art"; and

C. Grant Applicant such other and further relief as justice may require.

Respectfully submitted,



Robert E. Bushnell
Attorney for Applicant
Reg. No.: 27,774

1522 "K" Street, N.W., Suite 300
Washington, D.C. 20005
Area Code: 202-408-9040

Folio: P56734
Date: 8 March 2004
I.D.: REB/RSh

FEB 25 1998

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Washington, D.C. 20231

Director's Office
Group 2700

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Paper No. 21

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FEB 26 1998

Robert E. Bushnell
1511 K. Street N.W.
Suite 425
Washington, D.C. 20005

In re Application of
Gwon-Il Kim
Application Serial No.
08/447,279
Filed: May 22, 1995
For: SERVO CONTROLLER APPARATUS AND METHOD OF DISK RECORDING SYSTEM

) DECISION ON RENEWED PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the renewed petition filed August 25, 1997 under 37 C.F.R. § 1.181 of the repeated requirement of the Examiner to label Applicant's Figures one through three as "prior art". The petition is treated as a request for reconsideration of the previous decision of August 19, 1997 in which the requirement of labeling figures one through three as "prior art" was maintained.

A careful review of the application papers indicates that the subject matter of figures one through three is considered by applicant to be "conventional". However, there is no indication in the disclosure that the subject matter of the figures is expressly considered by the applicant to be "prior art". "When applicant states that something is prior art, it is taken as being available as prior art against the claims. Admitted prior art can be used in obviousness rejections. In re Nomiya , 184 USPQ 607, 610 (CCPA 1975) (Figures in the application labeled "prior art" held to be an admission that what was pictured was prior art relative to applicant's invention.)" See M.P.E.P. § 2129. The decision, supra, was cited by both petitioner and the deciding official in the previous petition. Whether the subject matter of figures one through three of the instant application is prior art against the claims is an appealable determination and, accordingly, will not be entertained in this decision, see M.P.E.P. § 1201.

There is no requirement that a particular figure or figures be labeled as "prior art". The MPEP at section 608.02(g) indicates that if prior art figures are to be retained in the file they

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#15

In re Application of :
MYUNG-CHAN JEONG :
Serial No: 08/343,939 :
Filed on : November 17,1994 :
For : DIGITAL SERVO CONTROL :
APPARATUS AND METHOD :
OF DATA STORAGE SYSTEM :
USING DISK RECORDING :
MEDIA :

DECISION ON PETITION
UNDER 37 CFR 1.181

This is a decision on the petition filed on September 13, 1996 requesting the withdrawal of the requirement to label Fig. 3 as "Prior Art".

The petition is GRANTED.

A review of the record indicates that figure 3 as originally filed and discussed was referred to as "CONVENTIONAL". Hence, in keeping with the disclosure and petitioner's arguments, the examiners' requirement to label this figure as "Prior Art" is incorrect and withdrawn.

Summary: The petition is Granted.

Jin F. Ng, Deputy Director
Examining Group 2500
Electrical and Optical Systems
and Devices

JFN/AMP

Robert E. Bushnell
1511 K Street N.W.
Washington, D.C. 20005

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Group 3600

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OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

DEC 17 1999
JA

OIPE
MAR 08 2004
PATENT & TRADEMARK OFFICE

ROBERT E BUSHNELL
ATTORNEY-AT-LAW
1522 K STREET, N.W., SUITE 300
WASHINGTON, D.C. 20005-1202

In re application of P54947
Hae-Won Ahn
Serial No.: 08/985,544
Filed : December 5, 1997
For: FRONT CASE STRUCTURE OF CRT DISPLAY DEVICE

: DECISION ON PETITION
: UNDER 37 CFR §1.181
: REQUESTING THAT
: THE COMMISSIONER
: INVOKE SUPERVISORY
: AUTHORITY

In the renewed petition filed September 9, 1999, applicant requested that the Commissioner invoke supervisory authority by instructing the examiner to withdraw the requirement that Figs. 1 and 2 be labeled as "Prior Art". The petition is GRANTED.

This petition presents two issues. First, are the figures in question necessary to the understanding of the invention? A review of the application has been made and it is considered that the figures are necessary to the understanding of the invention. Second, are the figures required to be labeled with the legend "Prior Art"?

A careful review of the application papers indicates that the subject matter of Figures 1 and 2 are considered by applicant to be "conventional". However, there is no indication in the disclosure that the subject matter of the figures is expressly considered by the applicant to be "Prior Art". If applicant states that something is prior art, it is available for use against the claims. See In re Nomiya, 184 USPQ 607 (CCPA 1975), MPEP §2129. No opinion is expressed in this decision whether the subject matter of Figures 1 and 2 are "Prior Art" since this is an appealable issue, MPEP §1201.

Finally, any concerns raised in the previous decision regarding applicant's duty of disclosure are withdrawn. The Office does not normally investigate such issues. 1135 Off. Gaz. Pat. Office, 13 (Jan. 9, 1992).

This application is being forwarded to the examiner for reinstatement of Figs. 1 and 2 and deletion of the amendment after final filed August 4, 1999.

Al Lawrence Smith, Director
Technology Center 3600
(703) 308-1020
AK
1/4/00

should be designated with the legend of "prior art". No requirement is made for an applicant to label figure(s) as "prior art" where there is no such indication in the disclosure.

Consequently, the requirement that figures one through three each be designated by the legend of "prior art" is withdrawn.

As the time for perfecting the appeal under 37 C.F.R. § 1.192(a) has expired without the submission of an Appeal Brief, the appeal is hereby dismissed, 37 C.F.R. § 1.192(b). The application file will be forwarded to the examiner for appropriate action in due course.

SUMMARY: Petition GRANTED.

Gerald Goldberg, Director
Technology Center 2700-
Communications and Information Processing

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Paper No. 6

WAFIK FARAG
Apt# 405
2456 Mass ave.
Cambridge, MA 02140

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APR 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Wafik Farag :
Application No. 10/338,932 :
Filed: January 8, 2003 :
For: HOLISTIC DYNAMIC INFORMATION MANAGEMENT PLATFORM . . . :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed March 4, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed February 28, 2003, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 29, 2003. A Notice of Abandonment was mailed on January 30, 2004.

A grantable petition under 37 CFR 1.137(a) must be accompanied by:
(1) the required reply,
(2) the petition fee,
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and
(4) a terminal disclaimer and fee *if* the application was filed on or before June 8, 1995 or *if* the application is a design application.

The instant petition lacks item (3).

The failure to receive an Office action is not unavoidable if an applicant has provided an incorrect correspondence address. The transmittal letter filed by applicant states a street address of "2456 Mass ave." However, an internet search indicates that the address is actually "2456 Massachusetts Ave." The term "Mass" is not a proper United States Postal Abbreviation for a street name including the term "Massachusetts."

Any renewed petition or future petition should clearly state the address to which future correspondence should be mailed.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (already submitted), the required petition fee ($665 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A copy of a blank petition form is enclosed for petitioner's convenience. Copies of this form and other forms may be found at http://www.uspto.gov/web/forms/index.html.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed, and therefore, must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: PTO/SB/64

cc: Wafik Farag
Apt. #405
2456 Massachusetts Ave.
Cambridge, MA 02140

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 8

WAFIK FARAG
Apt# 405
2456 Mass ave.
Cambridge, MA 02140

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OFFICE OF PETITIONS

In re Application of :
Wafik Farag :
Application No. 10/338,932 : ON PETITION
Filed: January 8, 2003 :
For: HOLISTIC DYNAMIC INFORMATION MANAGEMENT PLATFORM . . . :

This is a decision on the renewed petition under 37 CFR 1.137(a), filed April 28, 2004, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed February 28, 2003, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 29, 2003. A Notice of Abandonment was mailed on January 30, 2004.

The instant petition seeks revival of the application. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(a). Therefore, the petition is granted.

The file is now being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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PATREA L. PABST
PABST PATENT GROUP LLP
400 COLONY SQUARE SUITE 1200
1201 PEACHTREE STREET
ATLANTA, GA 30361

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OFFICE OF PETITIONS

In re Application of :
Sawhney et al. :
Application No. 10/338,933 : DECISION GRANTING PETITION
Filed: January 7, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. FTI 110 CIP (4) CON (5) :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 16, 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 January 7, 2003, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional applications was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Paralegal Liana Chase at (703) 306-0482. Any inquiries after approximately September 24, 2004 should be directed to (571) 272-3206.

This application is being forwarded to Technology Center Art Unit 1711 for appropriate action on the amendment filed June 16, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

MILBANK, TWEED, HADLEY & MCCLOY LLP
1 CHASE MANHATTAN PLAZA
NEW YORK, NY 10005-1413

In re Application of
Loucaides et al.
Application No.10/338,958
Filed: January 7, 2003
Attorney Docket No. 135974US
Title of Invention: SYSTEM AND METHOD FOR PROCESS SCHEDULING

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed September 19, 2003, under 37 C.F.R. §1.47(a).

The petition under 37 C.F.R. §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 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on January 7, 2003, without a signed oath or declaration. Accordingly, on February 28, 2003, a "Notice to File Missing Parts of Application" was mailed requiring, for the purposes of this decision, an executed oath or declaration and a $130.00 surcharge for its late filing.

In response, on September 19, 2003, applicant submitted a $130.00 surcharge for late filing oath or declaration fee, petition, a partially executed declaration and declarations from Andrew N. Cadel, VP and Corporate Officer of JP Morgan Chase Bank and Patent Attorney Frank Bruno.

Pursuant to petitioner's request deposit account 13-3250 has been charged the $130.00 petition fee.

A grantable petition under 37 C.F.R. §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 requirements (1) and (2).

As to item (1), Rule 47 applicant has failed to show that the non-signing inventor refused to sign the declaration after having been presented with the application papers. Rule 47 applicant indicates a letter was sent to inventor Loucaides last known address. However, rule 47 applicant did not indicate a copy of the application papers (specification, including claims, drawings, and oath or declaration) was presented to the non-signing inventor.

Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d).

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). Neither the citizenship nor the last known address has been provided in the declaration for inventor Loucaides.

It is also noted that Andrew Cadel is listed as being part of the inventive entity. Although Andrew Cadel provided a declaration outlining inventor Loucaides responsibilities the declaration within the meaning of 37 CFR 1.63 has not been executed by Cadel. If Andrew Cadel is part of the inventive entity he must execute the declaration. If Andrew Cadel is not part of the inventive entity he should not be listed on the declaration.

Petitioner must present a newly executed declaration to cure the defects outlined above.

Thus on renewed petition, rule 47 applicant must establish the **entire** application package (including specification, claims and drawings) was presented to the non-signing inventor and he refused to sign. A declaration that corrects the defect outlined above must also be submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 308-6916 (until December 1, 2003) (703) 872-9306
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 8

MILBANK, TWEED, HADLEY & MCCLOY LLP
1 CHASE MANHATTAN PLAZA
NEW YORK NY 10005-1413

COPY MAILED

JUL 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Alex Loucaides, Daniel Clayden, Phillip Carter, :
and Mark Addison :
Application No.10/338,958 :
Filed: January 7, 2003 :
Attorney Docket Number: 36287-04200 :
Title of Invention: System and Method For :
Process Scheduling :

DECISIONS ON PETITIONS
UNDER 37 CFR 1.48 AND 1.47(A)

This is in response to the petition filed under 37 CFR §1.48 and the renewed petition under 37 CFR 1.47(a). Both petitions were filed on July 7, 2003.

The petition filed under 37 CFR 1.48 is **GRANTED**.
The petition filed under 37 CFR 1.47(A) is **GRANTED**.

The above-identified application was filed on January 7, 2003, without a signed oath or declaration. Accordingly, on February 28, 2003, a "Notice to File Missing Parts of Application" was mailed requiring, for the purposes of this decision, an executed oath or declaration and a $130.00 surcharge for its late filing. A decision dismissing the petition filed under 37 CFR 1.47(a) was mailed on October 30, 2003. To make the renewed petition timely, a four month extension of time and accompanying fee have been submitted,

Petition Under 37 CFR 1.48

A grantable petition under 37 CFR 1.48 (a) requires: (1) a request to correct the inventorship that sets forth the desired inventorship change; (2) 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; (3) an oath or declaration by the actual inventor or inventors as required by §1.63 or as permitted by §§ 1.42, 1.43 or §1.47; (4) the processing fee set forth in §1.17(l); and (5) if an assignment has been executed by any of the original named inventors, the written consent of the assignee.

Petitioner has provided a statement from Andrew Cadel who attest he is not part of the inventive entity for the above -identified application and such error was made without deceptive intent. Petitioner has also provided the written consent from the assignee.

Accordingly, the requirements of 37 CFR 1.48 have been met.

Petition Under 37 CFR 1.47(a)

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 non-signing inventor's failure to execute the application papers sufficiently establishes that they refuse to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Alex Loucaides
49 Whitehill Avenue, Luton
Bedfordshire, LU1 3SR
Great Britain

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JUL 0 1 2004

OFFICE OF PETITIONS

In re Application of
Alex Loucaides, Daniel Clayden, Phillip Carter, and Mark Addison
Application No.10/338,958
Filed: January 7, 2003
Attorney Docket Number: 36287-04200
Title of Invention: System and Method For Process Scheduling

LETTER

Dear Mr. Loucaides:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, applicant (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

FRANK A. BRUNO
MILBANK, TWEED, HADLEY & MCCLOY LLP
1 CHASE MANHATTAN PLAZA
NEW YORK NY 10005-1413

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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Technology Center 2100

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

In re application of : **DECISION ON PETITION**
Dorothy M. Baylor et al. : **TO MAKE SPECIAL**
Application No. 10/338,965 : **(INFRINGEMENT)**
Filed: January 8, 2003 :
For: MEDICAL PAYMENT SYSTEM

This is a decision on the petition under 37 C.F.R § 1.102(d) filed January 8, 2003 to make the above-identified application special. The delay in acting on this petition is regrettable.

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 January 8, 2003 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 concurrently with the petition.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/mjz: 2/19/04

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/31/07

Paper No.: ✓

TO SPE OF : ART UNIT 2616

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/338973 Patent No: 7079500 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: _____

C. Reed Harper
SPE

2617
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,079,500

DATED : July 18, 2006

INVENTOR(S) : Menon

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In column 10, at line 29, delete "SPA" and insert --SIM--.

In column 26, at line 67, delete "DTMIF" and insert --DTMF--.

In column 34, at line 65, delete "DTMLF" and insert --DTMF--.

In column 35, at line 5, delete "DTMIF" and insert --DTMF--.

In column 35, at line 28, delete "(DIMIF)" and insert --(DTMF)--.

MAILING ADDRESS OF SENDER
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
1279 Oakmead Parkway
Sunnyvale, CA 94085-4040

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **9/09/08**

TO SPE OF : ART UNIT **3729 (3700)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/338,974** Patent No.: **7,174,627**

Attn: Minh Trinh

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
South Tower - 9A22
Palm Location 7580

***ATTN: Ok to enter (EP) 0 668 611 A1 8/1995 as requested in the cocin?**

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

PETER VO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

AU 3729

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BANNER & WITCOFF, LTD.
1001 G STREET, N.W.
WASHINGTON DC 20001-4597

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DEC 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Patricia L. SMALDONE et al. :
Application No. 10/339,011 : ON PETITION
Filed: January 8, 2003 :
Attorney Docket No. 005127.00171 :

This is a decision on the petition, filed October 12, 2004, requesting withdrawal of the holding of abandonment under the provisions of 37 CFR 1.8(b).

The petition is **GRANTED**.

Petitioner asserts that the abandonment be withdrawn as petitioner timely filed a response to the restriction requirement mailed December 29, 2003. Applicant has: (1) informed 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) supplied an additional copy of the previously mailed or transmitted correspondence and certificate; and (3) included a statement which attests on a personal knowledge basis or the satisfaction of the director to the previously timely mailing or transmission along with a copy of the sending units report confirming transmission. Accordingly, the provisions of 37 CFR 1.8(b) have been met.

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 3728 for appropriate action on the concurrently filed amendment.

Brian Hearn
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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Paper No. 4

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MAY 27 2003

OFFICE OF PETITIONS

Manuel R. Valcarcel, IV
GREENBERG TRAURIG, P.A.
1221 Brickell Avenue
Miami, FL 33131

In re Application of
Peter Warren and Mindy Camphouse
Application No.10/339,064
Filed: January 9, 2003
Attorney Docket Number: 44895.010300
Title of Invention: MEANING PROCESSOR

DECISION GRANTING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed April 29, 2003 (certificate of mailing April 24, 2003).

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application was sent to non-signing inventor's last known address. The non-signing inventor's failure to respond to the application mailing sufficiently establishes that she 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.

Deposit account 50-1792 has been charged the $130.00 petition fee, pursuant to petitioner's request.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Mindy Camphouse
12291 Westside Calispel
Usk, Washington 99180

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MAY 27 2003

OFFICE OF PETITIONS

In re Application of
Peter Warren and Mindy Camphouse
Application No.10/339,064
Filed: January 9, 2003
Attorney Docket Number: 44895.010300
Title of Invention: MEANING PROCESSOR

: LETTER

Dear Ms. Camphouse:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. § 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

Manuel R. Valcarcel, IV
GREENBERG TRAURIG, P.A.
1221 Brickell Avenue
Miami FL 33131

UNITED STATES PATENT AND TRADEMARK OFFICE

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Townsend and Townsend and Crew, LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834

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MAR 17 2005

OFFICE OF PETITIONS

In re Application of :
Yulun Wang, et al. :
Application No. 10/339,077 : DECISION ON PETITION
Filed: January7, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 155695-0277

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 16, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application(s) set forth in the amendment and Application Data Sheet (ADS) filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Further, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition complies with all of the requirements noted above.

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application(s). In order for the instant application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application(s) should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application(s) noted thereon.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Marianne Jenkins at (571) 272-3223.

Since the Examiner has already considered the amendment/ADS, this matter is being referred to the Publishing Division to be processed into a patent.

Frances Hicks

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

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NOV 12 2003

OFFICE OF PETITIONS

FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON, MA 02110

In re Application of	:	
Moshe Rock and Vikram Sharma	:	DECISION ACCORDING
Application No. 10/339,083	:	STATUS UNDER
Filed: January 9, 2003	:	37 CFR 1.47
Attorney Docket No. 10638-020002	:	
For: ELECTRIC HEATING/WARMING FABRIC ARTICLES	:	

This is in response to the petition under 37 CFR 1.47(a) filed September 24, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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Paper No. 7

Vikram Sharma
9 Celestine Terrace
Stoneham, MA 02180

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NOV 12 2003

OFFICE OF PETITIONS

In re Application of :
Moshe Rock and Vikram Sharma :
Application No. 10/339,083 :
Filed: January 9, 2003 :
Attorney Docket No. 10638-020002 :
For: ELECTRIC HEATING/WARMING FABRIC ARTICLES :

Letter

Dear Mr. Sharma:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON, MA 02110

UNITED STATES 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 29 2006

MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO IL 60606

In re Application of :
Roland L. Darby :
Appl. No. 10/339,096 :
Filed: January 9, 2003 :
For: MEGA CARD GAME :

DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on Applicant's Petition under 37 CFR § 1.181 filed on December 9, 2004 to reinstate the appeal of the rejection of claims in the present application.

The petition is granted.

The above application was filed on January 9, 2003 and a final rejection was mailed on October 30, 2003. Petitioner filed a notice of appeal on January 30, 2004 and an appeal brief on July 23, 2004. Examiner then set forth a notice of a defective appeal brief on August 23, 2004 and accordingly, Petitioner filed an amended appeal brief on September 10, 2004. Examiner then entered a subsequent action notifying Petitioner that the appeal brief was still defective and would be dismissed. Consequently, Petitioner filed this petition on December 9, 2004 and a supplement to the petition containing a new appeal brief on August 9, 2005.

Petitioner contends that "neither the first nor the second notification set forth any explanation to support the conclusion that the appeal briefs did not provide arguments that the claims were separately patentable." Furthermore, Petitioner asserts that the patentability for each group of claims believed to be separately patentable was provided in four separate sections, each of which included arguments based on highlighted claim language as to patentability rather than merely pointing out differences between claims.

Pursuant to 37 CFR § 1.192(d), an appeal is dismissed if the brief does not timely comply with Office regulations. However, Petitioner may petition such a dismissal in accordance with MPEP § 1206 (August 2001), in the section REVIEW OF BRIEF BY EXAMINER: "if appellant disagrees with the holding of noncompliance, a petition under 37 CFR § 1.181 may be filed."

Examiner first objected to the amended brief because Petitioner did not state whether claims 28 and 29 stood together. Examiner also objected to the brief on the grounds that Petitioner did not include any reasoning for which the appealed claims were separately

patentable. However, a review of the record indicates that applicant did comply. Petitioner stated that all of the claims in his application do not stand or fall together within the "Grouping of Claims" section of his appeal brief. Furthermore, Petitioner provides a separate set of independent arguments for each section of grouped claims, thereby providing an argument for why each group of claims is separately patentable.

MPEP 1206 in the section APPEAL BRIEF CONTENT, the following is set forth:

A distinction must be made between the lack of any argument and the presentation of arguments which carry no conviction. In the former case, notification of a defective appeal brief is in order, while in the latter case, the application or reexamination is forwarded to the Board for a decision on the merits.

While the arguments may not carry the conviction the examiner desires should be presented from the examiner's perspective, arguments have, nevertheless, been presented.

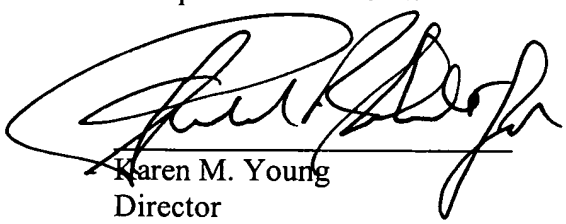
In view that the amended appeal brief was filed on September 10, 2004, it may be filed under 37 CFR § 1.192 or 41.37 pursuant to MPEP § 1205.02 (Rev. 3 August 2005). Accordingly, Petitioner's revised appeal brief, filed September 10, 2004, which was filed under 37 CFR § 1.192, was properly filed.

In summary, Petitioner's amended brief complies with 37 CFR § 1.192 and Examiner's objections are not considered applicable.

PETITION GRANTED.

Upon the mailing of this decision, the case will be withdrawn from an abandoned status and reinstated on Examiner's docket for action on the revised brief filed September 10, 2004. The SUPPLEMENT TO PETITION, filed August 9, 2005, along with a substitute appeal brief in compliance with 37 CFR 41.37, is considered untimely and is moot in view of this petition decision and, therefore, will not be given further consideration.

Any questions regarding this decision should be directed to Special Program Examiner Allan N. Shoap at 571-272-4514.



Karen M. Young
Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

JAN 17 2007

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SYNGENTA BIOTECHNOLOGY, INC.
PATENT DEPARTMENT
3054 CORNWALLIS ROAD
P.O. BOX 12257
RESEARCH TRIANGLE PARK NC 27709-2257

In re Application of :
Plaisted et al. :
Serial No.: 10/339,099 : PETITION DECISION
Filed: January 9, 2003 :
Attorney Docket No.: 60159P1

This is in response to the petition under 37 CFR § 1.59(b), filed November 13, 2006, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and attachment thereto, submitted to the Patent Office on December 5, 2006, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) 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, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Applicants may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

George Elliott
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

FEB 23 2007

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SYNGENTA BIOTECHNOLOGY, INC.
PATENT DEPARTMENT
3054 CORNWALLIS ROAD
P.O. BOX 12257
RESEARCH TRIANGLE PARK NC 27709-2257

In re Application of	:
Plaisted et al.	:
Serial No.: 10/339,099	: PETITION DECISION
Filed: January 9, 2003	:
Attorney Docket No.: 60159P1	

This is in response to the renewed petition under 37 CFR § 1.59(b), filed February 9, 2007, to expunge information from the above identified application. This application has now been allowed.

Petitioner requests that the Reply to Request for Information August 31, 2006, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) 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, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper. Also, as stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. As this application has been allowed, the information is being returned to applicant.

Therefore, applicant's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

George Elliott
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/339,111	01/09/2003	Robert W. DeSimone	N01.2100	3507

29441 7590 04/13/2005

NEUROGEN CORPORATION
35 NORTHEAST INDUSTRIAL ROAD
BRANFORD, CT 06405

EXAMINER	
SHAMEEM, GOLAM M	
ART UNIT	**PAPER NUMBER**
1626	

DATE MAILED: 04/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
Alexandria, VA. 22313-1450
WWW.USPTO.GOV

Neurogen Corporation
35 Northeast Industrial Road
Branford, CT 06405
Phone: (203) 488-8201

Date: March 02,2005
Application No. 10/339,111
Filed: September 01, 2003
Subject: **Melanin concentrating receptor ligands**

ON PETITION
37 CFR 1.48(b)

Receipt is acknowledged of the petition filed July 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 John M. Peterson and Yiping Shen.** 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

JOSEPH K. MCKANE
United States Patent and Trademark Office
Technology Center 1600
SPE, ART UNIT 1626
Remsen 5A05
571-272-0699

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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AUG 2 9 2008

ZILKA-KOTAB, PC
P.O. BOX 721120
SAN JOSE CA 95172-1120

In re Application of :
Robert PARKER et al. :
Application No. 10/339,114 : DECISION ON PETITION
Filed: January 09, 2003 :
Attorney Docket No. **CET-026431** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 15, 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 July 06, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A two (2) months extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is December 07, 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. Accordingly, the reply filed May 15, 2008, to the final Office action of July 06, 2007 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 571-272-2783.

This application is being referred to Technology Center AU 2835 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **PARUL P. KAMDAR**
KING & SPALDING LLP (USPTO ID 59081)
1100 LOUISIANA ST., STE 4000
HOUSTON TX 77002-5213

PTO/SB/64 (01-08)
Approved for use through 05/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional): CET-026431 (105197)

First named inventor: PARKER, Robert et al.

Application No.: 10/339,114 Art Unit: 2835

Filed: 01/09/2003 Examiner: VORTMAN, Anatoly

Title: LOW RESISTANCE POLYMER MATRIX FUSE APPARATUS AND METHOD

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 $ 1,540.00 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of REQUEST FOR CONTINUED EXAMINATION (identify type of reply):

☐ has been filed previously on _____.
☑ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

☑ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	MAY 15, 2008 Date
PARUL P. KAMDAR Typed or printed name	60,270 Registration Number, if applicable
KING & SPALDING LLP (USPTO ID 59081) Address	713.276.7308 Telephone Number
1100 LOUISIANA ST., STE. 4000, HOUSTON, TX 77002-5213 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~~. electronically via EFS-Web

05/15/2008 Date	Signature
	JULIE CLEMENTS Typed or printed name of person signing certificate

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10339114 Total Records Found: 16

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
05/16/2008	00006337	4	1453	$1,540.00	05/15/2008	CC
05/16/2008	00006338	4	1801	$810.00	05/15/2008	CC
12/10/2007	00000006	1	1252	$460.00	12/06/2007	CC
05/25/2007	00000037	1	1253	$1,020.00	05/24/2007	DA 503786
10/10/2006	00000001	1	1252	$450.00	09/28/2006	DA 012384
10/03/2006	00000084	1	1401	$500.00	09/28/2006	DA 012384
08/18/2006	00000002	1	1201	$200.00	04/25/2005	DA 012384
12/02/2005	00000028	1	1801	-$790.00	09/26/2005	DA 012384
09/28/2005	00000070	1	1801	$790.00	09/26/2005	DA 012384
09/01/2005	00000114	1	1801	$790.00	08/30/2005	DA 012384
09/01/2005	00000115	1	1806	$180.00	08/30/2005	DA 012384
04/27/2005	00000021	1	1806	$180.00	04/25/2005	DA 012384
04/07/2003	00000188	1	1051	$130.00	03/31/2003	DA 012384
01/13/2003	00000008	1	1001	$750.00	01/09/2003	DA 012384
01/13/2003	00000009	1	1201	$168.00	01/09/2003	DA 012384
01/13/2003	00000010	1	1202	$666.00	01/09/2003	DA 012384

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:	ROBERT PARKER	§	Group Art Unit: 2835
		§	Examiner: VORTMAN, ANATOLY
Serial No:	10/339,114	§	
Filed:	9 JANUARY 2003	§	Confirmation No.: 3539
For:	LOW RESISTANCE POLYMER MATRIX FUSE APPARATUS AND METHOD	§	Atty Docket: CET-026431 US (K&S 13682.105197)

MAIL STOP PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF FILING VIA EFS-WEB

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING ELECTRONICALLY FILED WITH THE U.S. PATENT OFFICE VIA EFS-WEB ON MAY 15, 2008, AS INDICATED BELOW.

JULIE CLEMENTS — DATE 05.15.2008

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Dear Honorable Commissioner:

In Response to the Notice of Abandonment mailed on April 17, 2008, Applicants herein submit that the entire delay from the due date to the date of the petition was unintentional.

Should the Examiner have any questions, comments, or suggestions in furtherance of the prosecution of this application, the Examiner is invited to contact the attorney of record by telephone.

Respectfully submitted,

Date: May 15, 2008

Parul P. Kamdar, Ph.D.
Registration No. 60,270
King & Spalding LLP
1100 Louisiana Street, Ste. 4000
Houston, TX 77002-5213
Telephone: 713.276.7308
Facsimile: 713.751.3290
E-mail: pkamdar@kslaw.com

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 24, 2010

TO SPE OF : ART UNIT 3671 - SPE Thomas B. Will.

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/339,116 Patent No.: 6,928,757 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Should the changes in the claims be approved?
See COCIN dated 04-21-2010

Certificates of Correction Branch
(571)272-0483

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Changes to the spec relate to typographical errors - The changes to the claim correct a printing oversight and do not change the allowed claim.

RICHARD E. CHILCOT, JR.
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

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DONNA J. THIES
790 IDYLWOOD DR. S.W.
ISSAQUAH WA 98027

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JAN 23 2008

OFFICE OF PETITIONS

In re Application of :
Hewett, Frank W. :
Application No. 10/339,137 : DECISION ON PETITION
Filed: January 9, 2003 :
Attorney Docket No. 7985-80244-02 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 14, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application, (2) the petition fee, and (3) a proper statement of unintentional delay.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 12/001,918.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc: KLARQUIST SPARKMAN, LLP
ONE WORLD TRADE CENTER, SUITE 1600
121 S.W. SALMON STREET
PORTLAND, OR 97204

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Raymond E. Farrell
Carter, DeLuca, Farrell & Schmidt, LLP
Suite 225
445 Broad Hollow Road
Melville NY 11747

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MAR 07 2007

OFFICE OF PETITIONS

In re Application of
Goldman et al.
Application No. 10/339,152
Filed: January 9, 2003
Attorney Docket No. 1047-16

ON PETITION

This is a decision on petition to withdraw the holding of abandonment under 37 CFR 1.181 filed January 9, 2006.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application was held abandoned June 19, 2005 for failure to file a complete reply to the final Office Action mailed on March 18, 2005. The final Office Action set a three (3) month extendable time period for reply. An amendment was filed on May 2, 2005. An advisory action was mailed on May 11, 2005 informing applicant the amendment submitted on May 11, 2005 did not place the application in condition for allowance. A Notice of Abandonment was mailed December 29, 2005.

Petitioner asserts that a reply to the final Office Action in the form of an RCE and preliminary amendment was timely submitted on June 17, 2005. As evidence, petitioner has submitted a copy of a return postcard date stamped by the Office acknowledging receipt of the reply on June 20, 2005. Additionally, petitioner has supplied a copy of the previously mailed correspondence which also contains a certificate of mailing pursuant to 37 CFR 1.8.

A review of the evidence presented shows that the RCE transmittal contained the incorrect application number. The correct application number is 10/339,152, not 10/338,152. The amendment did contain the correct application number, art unit, and title.

Correspondence directed to the Patent and Trademark Office concerning a previously filed application for a patent must identify the application number and filing date assigned to that application by the Office. See, 37 CFR 1.5(a). In the above-referenced application, applicant

failed to correctly identify the application by citing an incorrect application number in the correspondence. The Office elects, in this instance, to treat applicant's transposition of numbers as a correctable minor error as permitted under MPEP 502. However, applicant is reminded that minor errors, such as occurred in the instant application, are to be avoided in the future by the careful review of correspondence prior to submission to the Office.

The response submitted June 20, 2005 has been located in the Office. Based on the facts stated in the instant petition and the corroborative evidence provided, it is concluded that the holding of abandonment was improperly imposed

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The application file is being forwarded to the Technology Center 2800 for further processing of the RCE and amendment.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THE LAW OFFICES OF MIKIO ISHIMARU
1110 SUNNYVALE-SARATOGA ROAD
SUITE A1
SUNNYVALE, CA 94087

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SEP 0 3 2004
OFFICE OF PETITIONS

In re Patent No. 6,744,125 :
Issue Date: June 1, 2004 :
Application No. 10/339,158 : ON PETITION
Filed: January 9, 2004 :
Attorney Docket No. ST00-016B :

This is a decision on the petition filed June 15, 2004, to waive the rules and accept the correction of the assignee on the front page of the above-identified patent.

The petition is granted.

Telephone inquiries concerning this matter may be directed to Wan Laymon at (703) 306-5685.[1] 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.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] Effective September 27, 2004, the phone number will be 571-272-3220.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 6

BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY, CA 94704-0778

COPY MAILED

MAY 27 2003

OFFICE OF PETITIONS

In re Application of :
Jeffrey Fox, Brad Kadet, :
Roger Bryner, and Craig Lytle : DECISION ACCORDING STATUS
Application No. 10/339,170 : UNDER 37 CFR § 1.47(a)
Filed: January 7, 2003 :
Attorney Docket No. ALTRP078/A904 :
Title: METHOD AND APPARATUS FOR :
CONTROLLING EVALUATION OF PROTECTED:
INTELLECTUAL PROPERTY IN HARDWARE :

This is a decision on the "Petition for Filing under 37 CFR § 1.47(a)," filed April 14, 2003.

The petition is **GRANTED**.

The above-identified application was filed on January 7, 2003, 2002, without an executed declaration, missing the statutory basic filing fee and with additional claim fees due. Jeffrey Fox, Brad Kadet, Roger Bryner, and Craig Lytle were named as joint inventors. Accordingly, on February 25, 2003, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring the missing items, including an executed oath or declaration and a surcharge for late filing. This Notice set a period for reply of two months from the mailing date of the Notice.

On April 14, 2003, rule 47 applicant responded with two declarations executed, in combination, by joint inventors Fox, Kadet and Lytle on behalf of themselves and on behalf of non-signing inventor Bryner; the late surcharge under § 1.16(e); and the instant petition (and petition fee). Rule 47 applicant maintains that status under 37 CFR 1.47 is proper because joint inventor Bryner has refused to join in the application for patent.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. By declaration of patent paralegal Kim Clinger, and supporting documentary evidence, petitioner has shown that inventor Bryner was presented with the application papers, but that he expressly refused to sign the declaration.

The declarations filed April 14, 2003, and the petition have been reviewed and found in compliance with 37 CFR 1.47(a).

This application is hereby accorded Rule 1.47(a) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being returned to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

ROGER BRYNER
P.O. BOX 712153
SALT LAKE CITY, UT 84171

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MAY 27 2003

OFFICE OF PETITIONS

In re Application of :
Jeffrey Fox, Brad Kadet, :
Roger Bryner, and Craig Lytle :
Application No. 10/339,170 : LETTER
Filed: January 7, 2003 :
Attorney Docket No. ALTRP078/A904 :
Title: METHOD AND APPARATUS FOR :
CONTROLLING EVALUATION OF PROTECTED:
INTELLECTUAL PROPERTY IN HARDWARE :

Dear Mr. Bryner:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Petitions Attorney
Office of Petitions

BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY, CA 94704-0778

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATENT COUNSEL
APPLIED MATERIALS, INC.
POST OFFICE BOX 450A
SANTA CLARA, CA 95052

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FEB 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Jian Lin et al :
Application No. 10/339,172 : DECISION GRANTING PETITION
Filed: January 9, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. USA/CPS/IBSS :

This is a decision on the petition, filed January 24, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 11, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2855 for processing of the request for continued examination under 37 CFR 1.114 filed January 11, 2005 and for consideration of an Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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Jonathan A. Bay
Attorney at Law
Suite 314
333 Park Central East
Springfield, MO 65806

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JAN 26 2005

OFFICE OF PETITIONS

In re Application of :
Robert G. Nothum, Jr. :
Application No. 10/339,175 : DECISION GRANTING PETITION
Filed: January 9, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 337-20 :

This is a decision on the petition, filed December 2, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on January 8, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of May 5, 2005 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

This application is being referred to Technology Center Art Unit 3744 for examination in due course.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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Attorney at Law
Suite 314
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Springfield, MO 65806

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JAN 26 2005

OFFICE OF PETITIONS

In re Application of :
Robert G. Nothum, Jr. :
Application No. 10/339,176 : DECISION GRANTING PETITION
Filed: January 9, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 337-21 :

This is a decision on the petition, filed December 2, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on January 8, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of May 5, 2005 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

This application is being referred to Technology Center Art Unit 1761 for examination in due course.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 7

CHARLES N.J. RUGGIERO, ESQ.
OHLANDT, GREELEY, RUGGIERO & PERLE, L.L.P.
10TH FLOOR
ONE LANDMARK SQUARE
STAMFORD, CT 06901-2682

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JUN 1 6 2003

OFFICE OF PETITIONS

In re Application of :
Lun Leung, et al. :
Application No. 10/339,178 : ON PETITION
Filed: January 9, 2003 :
Attorney Docket No. 8840094USU :

This is a decision on the petition under 37 CFR 1.53, filed on April 29, 2003, requesting that the above-identified application be accorded a filing date of January 9, 2003, including four (4) pages of drawings.

The application was filed on January 9, 2003. However, on February 26, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Incomplete Nonprovisional Application" that stated the application had not been accorded a filing date, and that the application was deposited without the necessary drawings.

In response, on April 29, 2003, the instant petition and a copy of four (4) pages of drawings were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of four (4) pages of drawings on January 9, 2003. A review of the application file indicates the presence of zero (0) pages of drawings. It is assumed that the four (4) pages of drawings were misplaced by the Office.

In view of the above, the petition is granted and the "Notice Of Incomplete Nonprovisional Application" is hereby vacated.

The $130.00 petition will be refunded to deposit account no. 50-1239.

Please note, the two-month period for response for the "Notice Of Incomplete Nonprovisional Application" ended on April 26, 2003. As April 26, 2003 fell on a Saturday, and April 27, 2003 fell on a Sunday, Petitioner had until Monday, April 28, 2003 in which to timely submit the necessary response. As the instant papers do not contain an executed Certificate of Mailing under 37 CFR 1.8, since the Certificate of Mailing under 37 CFR 1.8 contained in the transmittal was not signed by Allison Berkman, the date of receipt of the instant petition is April 29, 2003. See MPEP 512. As such, a one-month extension of time is required and has been charged to deposit account 01-0467, as authorized in the instant petition.

This application will be returned to OIPE for further processing with a filing date of January 9, 2003, using the copy of the four (4) pages of drawings, supplied on April 29, 2003.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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Paper No. 112004

BRIAN M. DINGMAN
MIRICK O'CONNELL
1700 WEST PARK DRIVE
WESTBOROUGH, MA 01581-3941

NOV - 4 2004

In re Application of:	:	
Simons et al	:	PETITION FOR CORRECTION OF
Serial No.: 10/339,180	:	INVENTORSHIP
Filed: January 9, 2003	:	UNDER 37 CFR § 1.48(a)
Attorney Docket No.: 15876-46025	:	

This is a decision on the petition filed May 24, 2004 to correct inventorship under 37 CFR 1.48(a).

The petition is GRANTED.

In view of the papers filed May 24, 2004 it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48 (a). The inventorship of this application has been changed by adding the names:

Glenn M. Amber

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Paula A. Bradley
Supervisory Patent Examiner,
Art Unit 2833

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Paper No. 8

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

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OFFICE OF PETITIONS

In re Application of
James A. Proctor, Jr. and George Rodney Nelson, Jr.
Application No. 10/339,183
Filed: January 8, 2003
Attorney Docket Number: 2479.2139-001
Title of Invention: MAINTAINING A MAINTENANCE CHANNEL IN A REVERSE LINK OF A WIRELESS COMMUNICATIONS SYSTEM

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed September 22, 2003 (certificate of mailing September 16, 2003).

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application was sent to non-signing inventor's last known address. The non-signing inventor's failure to respond to the application mailing sufficiently establishes that he refuses to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

James A. Proctor, Jr.
258 Sea View Street
Melbourne Beach, Florida 32951

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NOV 04 2003

OFFICE OF PETITIONS

In re Application of
James A. Proctor, Jr. and George Rodney Nelson, Jr.
Application No. 10/339,183
Filed: January 8, 2003
Attorney Docket Number: 2479.2139-001
Title of Invention: MAINTAINING A MAINTENANCE CHANNEL IN A REVERSE LINK OF A WIRELESS COMMUNICATIONS SYSTEM

: LETTER

Dear Mr. Proctor:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. § 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

Mark Solomon
HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

UNITED STATES PATENT AND TRADEMARK OFFICE

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Hamilton, Brook, Smith & Reynolds, P.C.
530 Virginia Road
P.O. Box 9133
Concord, MA 01742-9133

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OFFICE OF PETITIONS

In re Application of	:	
James A. Proctor, Jr. et al.	:	
Application No. 10/339,183	:	DECISION ON PETITION
Filed: September 22, 2003	:	TO WITHDRAW
Attorney Docket No. TAN-2-1521.01.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 December 18, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Hamilton, Brook, Smith & Reynolds, P.C. has been revoked by the assignee of the patent application on April 26, 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.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Volpe and Koenig, P.C.**
Dept. ICC
United Plaza, Suite 1600
30 South 17th Street
Philadelphia, PA 19103

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Paper No. 5

George O. Saile
28 Davis Avenue
Poughkeepsie, NY 12603

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MAY 1 5 2003

OFFICE OF PETITIONS

In re Application of :
Tong et al. :
Application No. 10/339,204 :
Filed: January 9, 2003 :
Attorney Docket No. :
CS001-004B :

DECISION ON PETITION

This is a decision on the petition filed February 26, 2003, under 37 CFR 1.182, to permit entry of pageS 2-4 of the specification.

The application was deposited on January 9, 2003. However, on February 20, 2003, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application (hereinafter "Notice"), informing applicants that pages 2-4 of the specification appeared to have been omitted from the application.

In response, on February 26, 2003, Petitioner submitted the instant petition, requesting entry of pages 2-4 of the specification as part of the original disclosure, and that the application be accorded as the filing date, the date that pages 2-4 of the specification were submitted.

The mailing of the Notice permits the applicant to either: (1) promptly establish prior receipt in the PTO of the page(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted page(s) in a nonprovisional application and accept the date of such submission as the application filing date.

Petitioner has selected option two. However, as required in the Notice, Petitioner must provide a copy of the Notice, the omitted item(s)(with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such item(s), and a petition and fee.

Petitioner has failed to provide a supplemental oath or decalration in compliance with 37 CFR 1.63 and 1.64 referring to such item(s).

Accordingly, the petition is **dismissed**.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of January 9, 2003, using pages of the specification filed on that date.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Derek L. Woods
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

DLA PIPER RUDNICK GRAY CARY US, LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO, CA 94303-2248

In re Application of :
Hollmer : DECISION ON PETITION
Application No. 10/339,218 :
Filed: January 9, 2003 :
Atty. Dkt. No.: ATMI-626 :

This is a decision on the petition under 37 CFR 1.137(a), and, alternatively under 37 CFR 1.137(b), filed December 9, 2005, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

No further consideration of this matter by the Office of Petitions is deemed appropriate at the present time. However, should petitioners seek reconsideration, such request must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137." This is not a final agency decision.

A review of the application history for the instant application reveals that a final Office action was mailed May 13, 2005. The final Office action set a shortened three month period of time for reply making a reply due on or before August 13, 2005. A reply to the final Office was submitted November 17, 2005. The reply bore a certificate of mailing date of November 14, 2005 in accordance with 37 CFR 1.8. The reply consisted of a Notice of Appeal (and required fee) and a petition for three month extension of time (and required fee). The reply was submitted by J. Ikegami, as was the instant petition.

The period of time for reply was extendible up to three months making a reply due on or before November 13, 2005 (or no later than Monday, November 14, 2005 given the 13th of November did in fact fall on a Sunday). As the instant petition was timely submitted under the provisions of 37 CFR 1.8, the instant application is not abandoned. Thus, the instant petitions are

subject to dismissal. Petitioner may request a refund of the previously submitted $500.00 petition to revive fee submitted herewith. Petitioner may request a refund by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

This application is being directed to Technology Center 2800 for further processing and/or consideration of the responses submitted November 17, 2005 (Notice of Appeal) and December 9, 2005 (amendment after final rejection).

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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KEVIN B CLARKE ESQ
50 FIELD COURT
MILFORD CT 06460

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OCT 16 2006
OFFICE OF PETITIONS

In re Application of :
Dubicki, et al. :
Application No. 10/339,224 : ON PETITION
Filed: June 17, 2003 :
Attorney Docket No. HBL 03-01 :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed September 11, 2006.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed September 24, 2004. This Office action set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on December 25, 2004. A Notice of Abandonment was mailed on August 15, 2006.

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3]

Here, petitioner has established that he did not receive the Notice of Allowance at the above address of 50 Field Court, Milford CT, 06460. However, the Notice of Allowance was properly mailed to petitioner's prior address of 370 Warner Hill Road, Southport CT, 06490. Petitioner did not file a Change of Correspondence Address until January 26, 2006. Petitioner states the he received the March 8, 2004 Office action because the U.S. Postal Service forwarded that action to his new address. However, petitioner has not established how long the Postal Service was responsible for forwarding petitioner's mail.

While the showing of record is not sufficient to withdraw the holding of abandonment, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m), currently $750 for a small entity; 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:

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[1] See MPEP 711.03(c)(II).

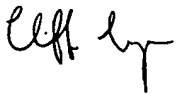
[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

KEVIN B CLARKE ESQ
50 FIELD COURT
MILFORD CT 06460

In re Application of :
Dubicki, et al. :
Application No. 10/339,224 : ON PETITION
Filed: June 17, 2003 :
Attorney Docket No. HBL 03-01 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed November 24, 2006.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed September 24, 2004. This Office action set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on December 25, 2004. A Notice of Abandonment was mailed on August 15, 2006. Applicants filed a petition to withdraw the holding of abandonment on September 11, 2006. However, the petition was dismissed in a decision mailed on October 16, 2006.

With the instant petition, petitioner paid the petition fee and made the proper statement of unintentional delay. The issue and publication fees were previously submitted on May 25, 2006.

The matter is being forwarded to the Office of Patent Publications for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 6

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JUL 17 2003

OFFICE OF PETITIONS

SHOOK, HARDY & BACON
1200 MAIN STREET
ONE KANSAS CITY PLACE
KANSAS CITY, MO 64105-2118

In re Application of
Matthew Robert George Bell, Eugene Murphy, Edward Cernocky, Christopher Burres, Aron Ekelund and Allen Lindfors
Application No.10/339,225
Filed: January 9, 2003
Attorney Docket Number: SHEL.
Title of Invention: CASING CONVEYED WELL PERFORATING APPARATUS AND METHOD

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed June 19, 2003. The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application was sent to non-signing inventor's last known address. The non-signing inventor's failure to respond to the application mailing sufficiently establishes that she 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.

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.

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

cc: William P Jensen
Shook, Hardy & Bacon L.L.P.
600 Travis Street, Suite 1600
Houston, Texas 77002-2911

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Allen Lindfors
P.O. Box 337
Inyokern, CA 93527

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JUL 17 2003

OFFICE OF PETITIONS

In re Application of
Matthew Robert George Bell, Eugene Murphy, Edward Cernocky, Christopher Burres, Aron Ekelund and Allen Lindfors
Application No.10/339,225
Filed: January 9, 2003
Attorney Docket Number: SHEL.
Title of Invention: CASING CONVEYED WELL PERFORATING APPARATUS AND METHOD

: LETTER

Dear Mr. Lindsfors:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, applicant (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

William P. Jensen
SHOOK, HARDY & BACON
1200 MAIN STREET
ONE KANSAS CITY PLACE
KANSAS CITY, MO 64105-2118

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 31, 2006

TO SPE OF : ART UNIT 3723

SUBJECT : Request for Certificate of Correction on Patent No.: 6,932,678

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Eva James

Drawings

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703- 308-9390 Ext. 124

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** DVN 4-3-06 — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

SPE

3723
Art Unit

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Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NAVAL RESEARCH LABORATORY
ASSOCIATE COUNSEL (PATENTS)
CODE 1008.2
4555 OVERLOOK AVENUE, S.W.
WASHINGTON, DC 20375-5320

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OFFICE OF PETITIONS

In re Application of :
Reza Mossadegh et al :
Application No. 10/339,255 : ON PETITION
Filed: January 6, 2003 :
Attorney Docket No. NC 84,468 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 6, 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 January 24, 2005, which set a shortened statutory period for reply of one (1) month or 30 days. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 25, 2005.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1731 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : April 02, 2008

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/339261 Patent No.: 6946478 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The C of C has been approved

/S. A. Jiang/ — **SPE**

1623 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : April 02, 2008

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/339261 Patent No.: 6946478 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: The C of C has been approved

/S. A. Jiang/ 1623

SPE **Art Unit**

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P.O. Box 1450
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COOLEY GODWARD KRONISH LLP
3000 EL CAMINO REAL
5 PALO ALTO SQUARE
PALO ALTO, CA 94306

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OFFICE OF PETITIONS

In re Application of :
James R. Mault :
Application No. 10/339,262 : DECISION ON PETITION
Filed: January 10, 2003 : TO WITHDRAW
Attorney Docket No. MJA-26003/03 : 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 September 29, 2006.

The request is **NOT APPROVED**.

A review of the file record indicates that the attorneys and/or agents associated with Customer Number 23419 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 below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Geoffrey Staniford**
Courtney Staniford & Gregory LLP
10001 N. De Anza Blvd., Suite 300
Cupertino, CA 95014

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P.O. BOX 1450
ALEXANDRIA, VA 22313-145

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JUL - 6 2004

OFFICE OF THE DIRECTOR
TC 3600

SHANKS & HERBERT
1301 K Street, N.W.
Suite 1100 – East Tower
Washington, DC 20005

In re application of
Douglas E. Bishop
Application No. 10/339,292
Filed: January 10, 2003
For: TRACTION SYSTEM AND FOOTWEAR

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on October 22, 2003, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved because the request does not comply with Item A). In the original declaration, Toni-Junell Herbert, Joseph G. Contrera, Timothy DeWitt, Shelly Guest Cermak, Chris Anledobe, Adam Cermak, Belinda Lew, and Cynthia Zhang were also given power in this application and the request fails to list these attorneys. If only the attorney listed in the request are to have power withdrawn and the eight attorneys listed above are intended to remain having power of attorney for this case, this needs to be made clear in any supplemental request; otherwise the above-noted attorneys would need to be added to the request.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 6/30/04

cc: Mr. Douglas Bishop
AWAKE, Inc.
120 Mack Bayou Road
Suite B
Santa Rosa Beach, FL 32459

Shanks & Herbert
TransPotomac Plaza
1033 N. Fairfax St., Suite 306
Alexandria, VA 22314

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Alexandria, VA 22313-1450
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KAI CHIH INTERNATIONAL CO LTD
CHONG-HO
PO BOX NO 6-57
TAIPEI 235 TW
TAIWAN

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APR 14 2006

OFFICE OF PETITIONS

In re Application of :
Wen-Pin Chen : DECISION GRANTING PETITION
Application No. 10/339,329 : AND WITHDRAWING THE
Filed: January 10, 2003 : HOLDING OF ABANDONMENT
Title: Aerosol Impingement Baffle :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed March 9, 2006.

The petition under 37 CFR 1.181 is **GRANTED**.

The holding of abandonment is **WITHDRAWN**.

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed April 23, 2004. This Office action set a shortened statutory period for reply of three (3) months. No response having been received, the application became abandoned on July 24, 2004. A Notice of Abandonment was mailed on December 29, 2004.

Petitioner states that he did not timely receive the Notice to File Missing Parts. To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been

received and docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2]

Here, petitioner has submitted a satisfactory docket record showing incoming mail for the relevant period, stated that the Office action was not received, and attested to the fact that he searched his file jacket and docked records.

Accordingly, the holding of abandonment is withdrawn.

Given the basis for granting this petition, no petition fee was required, and none has been charged.

The application is being forwarded to Group Art Unit 3752 for re-mailing of the Office action mailed April 23, 2004, setting a new period for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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[1] See MPEP 711.03(c)(II).

[2] Id.

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P.O. Box 1450
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Ferretti Chang
P.O. Box No. 6-57
Junghe
Taipei 235 TAIWAN AIRMAIL

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OFFICE OF PETITIONS

In re Application of :
Ferretti Chang :
Application No. 10/339,330 :
Filed: January 10, 2003 :
Title: Vehicle Body of Electric Vehicle :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed May 6, 2005, and supplemented on March 9, 2006.

The application became abandoned on September 26, 2004, for failure to reply to the nonfinal Office action mailed on June 25, 2004, which set a three-month shortened statutory period for reply. The present petition preceded the mailing of a Notice of Abandonment. In the present petition, petitioner asserted that his local agent, Vincent Lin, did not receive the nonfinal Office action of June 25, 2004.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the nonfinal Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See M.P.E.P. § 711.03(c). For example, if a three-month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt 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).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. Mr. Lin submitted a copy of the docket records where the non-received nonfinal Office action would have been entered had it been received and docketed. Mr. Lin stated that he was at the correspondence address of record at the time the nonfinal Office action would have been received. Furthermore, Mr. Lin attested to the fact that a search of the file jacket and docket records indicated that he did not receive the nonfinal Office action. As petitioner has presented the required showing, the petition to withdraw the holding of abandonment is **granted**.

In view of the evidence presented in support of the contention that petitioner's local agent did not receive the original nonfinal Office action of June 25, 2004, **Technology Center Art Unit 3618 shall remail the nonfinal Office action and restart the period for response.**

This matter is being referred to Technology Center Art Unit 3618 for further action in accordance with the present decision.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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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June 2005

DENNISON, SCHULTZ, DOUGHERTY, & MACDONALD
1727 KING STREET
SUITE 105
ALEXANDRIA, VA 22314

AUG - 2 2005

In re Application of:
KAZUMI MIYAMOTO ET AL.
Serial No.: 10/339,352
Filed: 10 January 2003
Title: VIBRATING DEVICE FOR AXIALLY VIBRATING A MOVABLE MEMBER

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed on November 16, 2004, to withdraw the holding of abandonment of the above-identified application under 37 C.F.R. § 1.181.

The petition to withdraw the holding of abandonment is **GRANTED**.

An Office action (non-final rejection) was mailed October 31, 2003, setting a three-month shortened statutory period for reply. In the apparent absence of receipt of a response, a Notice of Abandonment was mailed on August 12, 2004.

Petitioner asserts that a reply was timely filed. In support of the assertion that a reply was timely filed, petitioner submitted the following papers as evidence of timely submission: 1) a 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 docket report indicates that the Office communication was not received, 2) a page from petitioner's date book dated six months from the time the Office action was mailed, 3) a copy of the Office action mailed December 24, 2003, marked with an Office receipt stamp indicating that the action had been returned to the Office on January 5, 2004, and 4) a complete reply to the outstanding Office action.

A review of the file record indicates that the Office action mailed on December 24, 2003 was returned to the Office (having a USPTO stamp of January 5, 2004).

The Office procedure for handling returned actions is set forth in MPEP § 707.13:

> Office actions are sometimes returned to the Office because the United States Postal Service has not been able to deliver them. The examiner should use every reasonable means to ascertain the correct address and forward the action again, after stamping it "remailed" with the date thereof and redirecting it if there is any reason to believe that the action would reach applicant at such new address. If the Office action was addressed to an attorney, a letter may be written to the inventor or assignee informing him or her of the returned action. The period running against the application begins with the date of remailing. Ex parte Gourtoff, 1924 C.D. 153, 329 O.G. 536 (Comm'r Pat. 1924).

Since the Office failed to use reasonable means to ascertain the correct address and forward the action again, the Office bears the responsibility for petitioner's lack of notice. For this reason, the Notice of Abandonment is hereby vacated, and the holding of abandonment withdrawn. Inconvenience to the applicant is regretted.

The application will be directed to the examiner for consideration of the reply filed with the petition. An Office action will be mailed in due course.

Any inquiry regarding this decision should be directed to Clayton E. LaBalle, Special Program Examiner, at (571) 272-1594.

Richard K. Seidel, Director
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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CARY TOPE MCKAY
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MALIBU CA 90265

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OFFICE OF PETITIONS

In re Application of :
Peter Allmond Tinker et al :
Application No. 10/339,359 : DECISION ON PETITION
Filed: January 8, 2003 :
Attorney Docket No. HRL112 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 25, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 20, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on December 21, 2006. A Notice of Abandonment was mailed on April 4, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of arguments, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Office action of September 20, 2006 is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218 or to the Office of Petitions Help Desk at (571) 272-3282 after January 3, 2008.

This application is being referred to Technology Center AU 2628 for appropriate action in the normal course of business on the reply received May 25, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of

Savtchenko, et al. :

Application No. 10/339,378

: DECISION ON PETITION

Filed: January 9, 2003

:

Attorney Docket No. CR00-043 D01

This is a decision on the petition under 37 CFR 1.137(b), filed July 19, 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 final Office action mailed November 4, 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 February 5, 2006. A Notice of Abandonment was mailed on July 25, 2006.

Examiner Nguyen has determined that the amendment filed July 19, 2006, places the application in condition for allowance.

The application is being directed to Technology Center 2800, GAU 2824 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

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AUG 15 2005

OFFICE OF PETITIONS

In re Application of :
Dhanapalan Nagarathnam, et al. :
Application No. 10/339,393 : ON PETITION
Filed: January 10, 2003 :
Attorney Docket No. BAYER-27-3 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 29, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed July 7, 2004, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 9, 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 (Restriction Requirement); (2) the petition fee; (3) the required statement of unintentional delay have been received. Accordingly, the petition filed March 29, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to Technology Center 1600, Art Unit 1624 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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2 INDEPENDENCE WAY - SUITE 2
P.O. BOX 5312
PRINCETON, NJ 08543-5312

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OFFICE OF PETITIONS

In re Application of	:	
TESTIN	:	
Application No.: 10/339,421	:	DECISION ON PETITION
Filing Date: January 9, 2003	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: PU020193	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 6, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed December 5, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on March 6, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the payment of the issue fee and publication fee is accepted as having been unintentionally delayed.

This application is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 8

Salvatore Anastasi
BARLEY, SNYDER, SENFT & COHEN, LLC
126 East King Street
Lancaster, PA 17602-2893

JAN 0 2 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Rosenberg, et al.
Application No.: 10/339,425
Filed: January 09, 2003
For: SYSTEM AND METHOD FOR PROVIDING A PERSONALIZED MEDIA SERVICE

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1. 36 and 10.40(c) filed October 24, 2003.

A Power Of Attorney Under 37 CFR § 1. 36 was filed on November 12, 2003. The Power Of Attorney revoked all prior Powers Of Attorney and appointed ROTHWELL, FIGG, ERNST & MANBECK, P.C. as the attorneys of record of the instant application. The Power Of Attorney of November 12, 2003 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted ROTHWELL, FIGG, ERNST & MANBECK, P.C.

For the above stated reasons, the request is DISMISSED AS MOOT.

No further communication to you regarding this application will be made.

for James R. Matthews
Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K Street, N.W.
Suite 800
Washington, DC 20005

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Paper No. 9

PHILIP S. JOHNSON
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NEW BRUNSWICK, NJ 08933-7003

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AUG 3 0 2004

OFFICE OF PETITIONS

In re Application of
Gifford et al.
Application No. 10/339,434
Filed: January 9, 2003
Attorney Docket No. HRT0256C

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 23, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/966,118, filed September 28, 2001, as set forth in the amendment embodied in the instant petition.[1]

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

A reference to add the 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.

[1] *Note* 37 CFR 1.4(c)

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[2] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

As authorized, the $1330.00 fee required by 37 CFR 1.78(a)(3)(ii) will be charged to petitioner's Deposit Account No. 10-0750.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
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Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
Customer Window located at:

U.S. Patent and Trademark Office
220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

By fax:
(703) 872-9306[3]
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Paralegal Liana Chase at (703) 306-0482. Any questions after September 28, 2004 should be directed to (571) 272-3206.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[2] *Note* 37 CFR 1.121

[3] Effective approximately September 28, 2004, the facsimile number will be 571-273-0025, which is when the Office of Petitions expects to move to the new quarters in Alexandria, Virginia. However, this number is not to be used for submitting formal papers, but merely is to be used for receiving courtesy and informal papers and petitions to withdraw from issue only. Courtesy and informal papers will not be made a part of the file record.

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JUL 13 2005

OFFICE OF PETITIONS

In re Application of :
Gifford et al. :
Application No. 10/339,434 : DECISION ON PETITION
Filed: 9 January, 2003 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. HRT0256C :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed on 2 December, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/966,118, as set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, was mailed on 9 August, 2004.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3731 for appropriate action on the amendment filed 2 December, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Frances Hicks
Lead Paralegal
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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FEB 17 2006

OFFICE OF PETITIONS

In re Application of :
Hanson S. Gifford III et al :
Application No. 10/339,434 : ON PETITION
Filed: January 9, 2003 :
Attorney Docket No. HRT0256C :

This is a decision on the petition, filed February 9, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 3, 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 3733 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).